

भारत का राजपत्र **The Gazette of India**

असामान्य

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 32]
No 32]

नई दिल्ली, बुधवार, मई 9, 1973/वैशाख 19, 1895
NEW DELHI, WEDNESDAY, MAY 9, 1973/VAISAKHA 19, 1895

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 9th May, 1973. —

BILL NO. 34 OF 1973

A Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Surtax Act, 1964.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Taxation Laws (Amendment) Act, 1973.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

2. Throughout the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act),—

(i) for the expression "Appellate Assistant Commissioner", wherever it occurs, the expression "Deputy Commissioner (Appeals)" shall be substituted;

(ii) for the expression "Appellate Assistant Commissioners", wherever it occurs, the expression "Deputy Commissioners (Appeals)" shall be substituted;

Short
title and
com-
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Substi-
tution of
certain
expres-
sions by
certain
other ex-
pressions.

(iii) for the expression "Inspecting Assistant Commissioner", wherever it occurs, the expression "Deputy Commissioner (Assessment)" shall be substituted;

(iv) for the expression "Inspecting Assistant Commissioners", wherever it occurs, the expression "Deputy Commissioners (Assessment)" shall be substituted,

and such other consequential amendments as the rules of grammar may require, shall also be made.

Amend-
ment of
section 2.

3. In section 2 of the Income-tax Act,—

(i) clauses (3) and (27) shall be omitted;

(ii) after clause (19), the following clauses shall be inserted, namely:—

'(19A) "Deputy Commissioner (Appeals)" means a person appointed to be a Deputy Commissioner of Income-tax (Appeals) under sub-section (1) of section 117;

(19B) "Deputy Commissioner (Assessment)" means a person appointed to be a Deputy Commissioner of Income-tax (Assessment) under sub-section (1) of section 117;';

(iii) for clause (25), the following clause shall be substituted, namely:—

'(25) "Income-tax Officer" means a person appointed to be a Senior Income-tax Officer or an Income-tax Officer under section 117;';

(iv) after clause (29), the following clause shall be inserted, namely:—

'(29A) "minor child" includes a step-child and an adopted child;';

(v) in clause (43B), for the words "an Assistant Commissioner of Income-tax", the words "a Deputy Commissioner of Income-tax" shall be substituted.

Amend-
ment of
section 10.

4. In section 10 of the Income-tax Act, in clause (6), after sub-clause (vi), the following sub-clause shall be inserted, namely:—

"(via) the remuneration received by him as an employee of, or a consultant to, an institution or association or a body established or formed outside India solely for philanthropic purposes, for services rendered by him in India in connection with such purposes, provided that such institution or association or body and the purposes for which his services are rendered in India are approved by the Central Government;".

Amend-
ment of
section
11.

5. In section 11 of the Income-tax Act,—

(i) in sub-section (1),—

(a) for clauses (a) and (b), the following clauses shall be substituted, namely:—

"(a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of twenty-five per cent. of the income from such property;

(b) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of twenty-five per cent. of the income from such property;";

(b) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

"*Explanation*.—For the purposes of clauses (a) and (b),—

(1) in computing the twenty-five per cent. of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(2) if, in the previous year, the income applied to charitable or religious purposes in India falls short of seventy-five per cent. of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(i) for the reason that the whole or any part of the income has not been received during that year,
or

(ii) for any other reason,

then—

(a) in the case referred to in sub-clause (i), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount; and

(b) in the case referred to in sub-clause (ii), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised in writing before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension for furnishing the return of income) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (i), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (ii), during the previous year immediately following the previous year in which the income was derived.";

(ii) in sub-section (2), for the portion beginning with the words, brackets, letters and figure "Where any income referred to in clause (a) or clause (b) of sub-section (1)" and ending with the words "the following conditions are complied with, namely:—", the following shall be substituted, namely:—

"Where seventy-five per cent. of the income referred to in clause (a) or clause (b) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart for application to such purposes in India, such income shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—";

(iii) to sub-section (3), the following proviso shall be added, namely:—

"Provided that where due to circumstances beyond the control of the trustees, the income referred to in sub-section (2) could not be applied for the purpose for which it was accumulated or set apart, the Income-tax Officer may, on an application made in this behalf by the trustees, permit such income to be applied during the period referred to in clause (a) of that sub-section or in the year immediately following the expiry thereof for such other charitable or religious purposes in India as are in conformity with the objects of the trust."

Amend-
ment of
section
13.

6. In section 13 of the Income-tax Act,—

(i) in sub-section (1),—

(a) in clause (b), the words "created or established after the commencement of this Act" shall be omitted;

(b) after clause (b), the following clause shall be inserted, namely:—

"(bb) in the case of a charitable trust or institution for the relief of the poor, education or medical relief, which carries on any activity for profit, any income derived from such activity, unless the activity is carried on in the course of the actual carrying out of a primary purpose of the trust or institution:";

(c) after clause (c) and the provisos thereto, the following clauses shall be inserted, namely:—

"(d) any voluntary contribution received by a trust or institution created or established wholly for a charitable purpose, where the identity of the person who has made such voluntary contribution is not established to the satisfaction of the Income-tax Officer;

(e) subject to the provisions of clause (bb), in the case of a trust for charitable or religious purposes or a charitable or religious institution, if any funds of the trust or institution are, or continue to remain, invested for any period

during any previous year commencing after the 31st day of March, 1978, in any concern (including a company) which is carrying on any business and which is not owned or controlled by the Government.”;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) On the voluntary contributions referred to in clause (d) of sub-section (1), where the identity of the persons who have made such voluntary contributions is not established to the satisfaction of the Income-tax Officer, the tax shall be charged at the rate of sixty-five per cent.”;

(iii) in sub-section (3), for clause (b), the following clause shall be substituted, namely:—

“(b) any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds five thousand rupees.”.

7. In section 16 of the Income-tax Act, in clause (i), for the words “five hundred rupees”, the words “one thousand rupees” shall be substituted. Amendment of section 16.

8. In section 23 of the Income-tax Act,—

(i) in sub-section (1), after the second proviso, the following *Explanation* shall be inserted, namely:— Amendment of section 23.

“*Explanation.*—Where any property is in the occupation of a tenant and the amount of annual rent paid or payable by him in respect thereof is in excess of the annual value as determined under this sub-section, the annual value shall be deemed to be the actual annual rent paid or payable.”;

(ii) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) Where the property consists of—

(i) a house in the occupation of the owner for the purposes of his own residence, the annual value of such house shall first be determined in the same manner as if the property had been let and further be reduced by one-half of the amount so determined or one thousand and eight hundred rupees, whichever is less;

(ii) more than one house in the occupation of the owner for the purposes of his own residence, the provisions of clause (i) shall apply only in respect of one of such houses, which the assessee may, at his option, specify in this behalf:

Provided that for the purposes of clauses (i) and (ii), where the sum so arrived at exceeds ten per cent, of the total income of the owner (the total income for this purpose being computed

without including therein any income from such property and before making any deduction under Chapter VIA), the excess shall be disregarded.

Explanation.—Where any such residential unit as is referred to in the second proviso to sub-section (1) is in the occupation of the owner for the purposes of his own residence, nothing contained in that proviso shall apply in computing the annual value of that residential unit.

(2A) For the removal of doubt, it is hereby declared that where the property consists of more than one house and such houses are in the occupation of the owner for the purposes of his own residence, the annual value of the houses, other than that the annual value of which is required to be determined under clause (ii) of sub-section (2), shall be determined under sub-section (1) as if such houses had been let.”

Amend-
ment of
section
26.

9. In section 26 of the Income-tax Act, the following *Explanation* shall be inserted, namely:—

“Explanation.—For the purposes of this section, in applying the provisions of sub-section (2) of section 23 for computing the share of each such person as is referred to in this section, such share shall be computed, as if each such person is individually entitled to the relief provided in that sub-section.”

Amend-
ment of
section
32.

10. In sub-section (1) of section 32 of the Income-tax Act, for clause (i), the following clause shall be substituted, namely:—

“(i) in the case of ships other than ships ordinarily plying on inland waters, such percentage on the actual cost thereof to the assessee as may, in any case or class of cases or in respect of any period or periods, be prescribed:

Provided that different percentages may be prescribed for different periods having regard to the date of purchase of the ship;”

Amend-
ment of
section
35C

11. In sub-section (1) of section 35C of the Income-tax Act,—

(i) in clause (a), after the words “Where any company”, the words “or a co-operative society” shall be inserted;

(ii) for the words “the company”, wherever they occur, the words “the company or co-operative society” shall be substituted.

Insertion
of new
section
44B.

12. In Chapter IV of the Income-tax Act, under the heading “D.—*Profits and gains of business or profession*”, after section 44A, the following section shall be inserted, namely:—

Mainte-
nance of
accounts
by cer-
tain per-
sons
carrying
on busi-
ness
or pro-
fession.

“44B. (1) Every person carrying on any business or profession shall keep and maintain such books of account and other documents as may enable the Income-tax authority to determine the tax payable by him and the exemptions, deductions and other allowances permissible to him under this Act:

Provided that nothing in this sub-section shall apply to any person carrying on any business unless—

(i) his annual income from such business exceeds twenty-five thousand rupees or the gross receipts or the value of the

turnover of goods in such business exceed or exceeds two lakhs and fifty thousand rupees, in any one of the three years immediately preceding the previous year; or

(ii) where the business is newly set up, his annual income from such business is likely to exceed twenty-five thousand rupees or the gross receipts or the value of the turnover of goods in such business are or is likely to exceed two lakhs and fifty thousand rupees, during the previous year.

(2) The Board may, having regard to the nature of the business or profession carried on by any class of persons, prescribe, by rules, the books of account and other documents (including inventories, wherever necessary) to be kept and maintained under sub-section (1), the particulars to be contained therein and the form and the manner in which and the place at which they shall be kept and maintained.

(3) Without prejudice to the provisions of sub-section (2), the Board may prescribe, by rules, the period for which the books of account and other documents to be kept and maintained under sub-section (1) shall be retained."

13. In sub-section (1) of section 49 of the Income-tax Act,—

Amend-
ment of
section
49.

(a) after clause (iii), the following clause shall be inserted, namely:—

"(iv) such assessee being a Hindu undivided family, by the mode referred to in sub-section (2) of section 64 at any time after the 31st day of December, 1969,";

(b) in the *Explanation*, for the words, brackets and figures "clause (ii) or clause (iii)", the words, brackets and figures "clause (ii) or clause (iii) or clause (iv)" shall be substituted.

14. In section 64 of the Income-tax Act,—

Amend-
ment of
section
64.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) In computing the total income of any individual, there shall be included all such income as arises directly or indirectly—

(i) to the spouse of such individual from the membership of the spouse in a firm carrying on a business in which such individual is a partner;

(ii) to the spouse of such individual by way of salary, commission, fees or any other form of remuneration whether in cash or in kind from a concern in which such individual has a substantial interest;

(iii) to a minor child of such individual from the admission of the minor to the benefits of partnership in a firm;

(iv) subject to the provisions of clause (i) of section 27,

to the spouse of such individual from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart;

(v) subject to the provisions of clause (i) of section 27, to a minor child (not being a married daughter) of such individual, from assets transferred directly or indirectly to the minor child by such individual otherwise than for adequate consideration;

(vi) to the son's wife, or son's minor child, of such individual, from assets transferred directly or indirectly to the son's wife or son's minor child by such individual otherwise than for adequate consideration; and

(vii) to any person or association of persons from assets transferred directly or indirectly otherwise than for adequate consideration to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his or her spouse or minor child (not being a married daughter) or both.

Explanation 1.—For the purposes of clause (i), the individual, in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater; and, for the purposes of clause (iii), the income of the minor child from the partnership shall be included in the income of that parent whose total income (excluding the income referred to in that clause) is greater; and where any such income is once included in the total income of either spouse or parent, any such income arising in any succeeding year shall not be included in the total income of the other spouse or parent unless the Income-tax Officer is satisfied, after giving that spouse or parent an opportunity of being heard, that it is necessary so to do.

Explanation 2.—For the purposes of clause (ii), an individual shall be deemed to have a substantial interest in a concern—

(i) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent. of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of his relatives;

(ii) in any other case, if such person is entitled, or such person and one or more of his relatives are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent. of the profits of such concern.

Explanation 3.— For the purposes of clauses (iv) and (v), where the assets transferred directly or indirectly by an individual to his spouse or minor child are utilised by the spouse or

minor child in any business, that part of the income arising out of the business to the spouse or minor child in any previous year, which bears the same proportion to the income of the spouse or minor child from the business as the value of the assets aforesaid bears to the total investment in the business by the spouse or the minor child, shall be included in the total income of the individual in that previous year.

Explanation 4.—Where in computing the total income of any individual, the income of any person is liable to be included under the provisions of this sub-section, any income arising subsequently out of any investment of the income so liable to be included shall be included in computing the total income of the individual for the relevant previous year.”;

(b) in sub-section (2),—

(i) in clause (b), the words “in so far as it is attributable to the interest of the individual in the property of the family,” shall be omitted;

(ii) for clause (c), the following clause shall be substituted, namely:—

“(c) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, also the income derived from such converted property as is received by the spouse or minor child on partition shall be deemed to arise to the spouse or minor child from assets transferred indirectly by the individual to the spouse or minor child and the provisions of sub-section (1) shall, so far as may be, apply accordingly:”;

(iii) in the *Explanation*,—

(A) the brackets and figure “(1)” shall be omitted;

(B) paragraph (2) shall be omitted.

15. In Chapter VI of the Income-tax Act, under the heading “*Aggregation of income*”, after section 69B, the following sections shall be inserted, namely:—

Insertion of new sections 69C and 69D.

“69C. Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Income-tax Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year.

Unexplained expenditure, etc.

Amount
borrowed
or repaid
on *hundi*.

69D. Where any amount is borrowed on a *hundi* from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be:

Provided that, if in any case any amount borrowed on a *hundi* has been deemed under the provisions of this section to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under the provisions of this section on repayment of such amount.

Explanation.—For the purposes of this section, the amount repaid shall include the amount of interest paid on the amount borrowed.”.

Amend-
ment of
section
73.

16. In section 73 of the Income-tax Act, the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—Where any part of the business of a company [other than an investment company, as defined in clause (ii) of section 109, or a company the principal business of which is the business of banking or the granting of loans and advances] consists in the purchase and sale of shares of other companies, such company shall, for the purposes of this section, be deemed to be carrying on a speculation business to the extent to which the business consists of the purchase and sale of such shares.”.

Amend-
ment of
section
80A.

17. In section 80A of the Income-tax Act,—

(i) in sub-section (1), for the figures and letter “80U”, the figures and letters “80VV” shall be substituted;

(ii) in sub-section (3), the words, figures and letter “or section 80H” shall be omitted.

Amend-
ment of
section
80G.

18. In section 80G of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section, an amount equal to fifty per cent. of the aggregate of the sums specified in sub-section (2).”.

Inser-
tion of
new sec-
tion
80GG.

19. In Chapter VIA of the Income-tax Act, under the heading “B.—*Deductions in respect of certain payments*” after, section 80G, the following section shall be inserted, namely:—

Deduction in
respect
of rents
paid.

“80GG. In computing the total income of an assessee, not being an assessee having any income chargeable under the head “Salaries”, there shall be deducted any expenditure incurred by him in excess of ten per cent. of his total income towards payment of rent (by whatever name called) in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence, to the extent to which such excess expenditure does not exceed three hundred rupees per month or fifteen per cent. of his total

income for the year, whichever is less, and subject to such other conditions or limitations as may be prescribed, having regard to the area or place in which such accommodation is situated and other relevant considerations:

Provided that nothing in this section shall apply to an assessee in any case where any residential accommodation is owned by him or by his spouse or minor child, or, where such assessee is a member of a Hindu undivided family, by such family.

Explanation.— In this section, the expressions “ten per cent. of his total income” and “fifteen per cent. of his total income” shall mean ten per cent. or fifteen per cent., as the case may be, of the assessee’s total income before allowing deduction for any expenditure under this section.’

- | | |
|---|---|
| <p>20. Section 80H of the Income-tax Act shall be omitted.</p> | <p>Omission of section 80H.</p> |
| <p>21. In section 80J of the Income-tax Act,—</p> <p>(i) in sub-section (1), the brackets, words, figures and letter “(reduced by the deduction, if any, admissible to the assessee under section 80H)” shall be omitted;</p> <p>(ii) in sub-section (3), for the words, figures and letter “after allowing the deductions, if any, admissible under section 80H and”, the words “after allowing the deduction, if any, admissible under” shall be substituted.</p> | <p>Amendment of section 80J.</p> |
| <p>22. In sub-section (1) of section 80L of the Income-tax Act, after clause (vii), the following clause shall be inserted, namely:—</p> <p>“(viii) interest on deposits with any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;”.</p> | <p>Amendment of section 80L.</p> |
| <p>23. In sub-section (3) of section 80P of the Income-tax Act,—</p> <p>(i) the words, figures and letter “section 80H or” shall be omitted;</p> <p>(ii) for the words, figures and letters “deductions under section 80H and section 80J”, the words, figures and letter “deduction under section 80J” shall be substituted.</p> | <p>Amendment of section 80P.</p> |
| <p>24. In sub-section (2) of section 80QQ of the Income-tax Act,—</p> <p>(i) the words, figures and letter “section 80H or” shall be omitted;</p> <p>(ii) the figures and letter “80H,” shall be omitted.</p> | <p>Amendment of section 80QQ.</p> |
| <p>25. In Chapter VIA of the Income-tax Act, under the heading “D.—Other deductions”, after section 80U, the following sections shall be inserted, namely:—</p> <p>“80V. In computing the total income of an assessee, there shall be allowed by way of deduction any interest paid by him in the</p> | <p>Insertion of new sections 80V and 80VV.</p> <p>Deduction of interest</p> |

on
moneys
borrowed
to pay
taxes.

Deduction in respect of expenses incurred in connection with certain proceedings under the Act.

Amendment of section 104.

Amendment of section 109.

Amendment of section 116.

previous year on any money borrowed for the payment of any tax due from him under this Act.

80VV. In computing the total income of an assessee, there shall be allowed by way of deduction any expenditure incurred by him in the previous year in respect of any proceedings before any Income-tax authority or the Appellate Tribunal or any court relating to the determination of any liability under this Act, by way of tax, penalty or interest:

Provided that no deduction under this section shall, in any case, exceed in the aggregate two thousand rupees.”.

26. In section 104 of the Income-tax Act, for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Without prejudice to the provisions of section 108, nothing contained in this section shall apply to a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India.”.

27. In section 109 of the Income-tax Act,—

(a) after clause (i), the following clause shall be inserted, namely:—

“(ia) “industrial company” means an Indian company whose business consists wholly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power;”;

(b) in clause (iii),—

(i) for sub-clause (1), the following sub-clauses shall be substituted, namely:—

“(1) in the case of an industrial company.... 45%;

(2) in the case of an investment company other than an investment company which falls under sub-clause (3) of this clause 90%”;

(ii) in sub-clause (3), for the portion beginning with the words “in the case of an Indian company” and ending with the words “attributable to such business Nil”;

the following shall be substituted, namely:—

“in the case of an Indian company, not being an industrial company, a part of whose gross total income consists of profits and gains attributable to the business of construction of ships or of manufacture or processing of goods or of mining or of generation or distribution of electricity or any other form of power—

(a) in relation to the profits and gains

attributable to such business.. . . .45%”.

28. In section 116 of the Income-tax Act, for clause (d), the following clause shall be substituted, namely:—

“(d) Deputy Commissioners of Income-tax, who may be either Deputy Commissioners of Income-tax (Appeals) or Deputy Commissioners of Income-tax (Assessment),”.

29. In section 117 of the Income-tax Act,—

(i) in sub-section (1), for the words and figure "Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers of Class I Service", the words and brackets "Deputy Commissioners of Income-tax (Appeals), Deputy Commissioners of Income-tax (Assessment) and Senior Income-tax Officers" shall be substituted;

Amend-
ment of
section
117.

(ii) in sub-section (2), for the words and figures "Income-tax Officers of Class II Service", the words "Income-tax Officers" shall be substituted.

30. In sub-section (2) of section 124 of the Income-tax Act, for the portion beginning with the words "and shall perform such functions" and ending with the words "work to be performed.", the following shall be substituted, namely:—

Amend-
ment of
section
124.

"and shall perform their functions in relation to the said area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, in accordance with such general or special (Assessment) authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions."

31. In sub-section (1) of section 125 of the Income-tax Act, in the proviso,—

Amend-
ment of
section
125.

(i) after the figures and letter "132A," the figures and letter "132B," shall be inserted;

(ii) for the words, figures and brackets "and 271 to 274 (both inclusive)", the figures, words and brackets "271 to 273 (both inclusive) and 274" shall be substituted.

32. After section 125 of the Income-tax Act, the following section shall be inserted, namely:—

Insert-
tion of
new sec-
tion 125A.
Concur-
rent juris-
diction
of
Deputy Com-
missioner
(Assess-
ment)
and In-
come-tax
Officer.

"125A. (1) The Commissioner may, by general or special order in writing, direct that all or any of the powers or functions conferred on, or assigned to, the Income-tax Officer or Income-tax Officers by or under this Act in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, shall be exercised or performed concurrently by the Deputy Commissioner (Assessment).

(2) Where under sub-section (1), a Deputy Commissioner (Assessment) exercises concurrent jurisdiction with one or more Income-tax Officers in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, the Income-tax Officer or income-tax Officers shall exercise the powers and perform the functions under this Act in relation thereto as the Deputy Commissioner (Assessment) may direct.

(3) Without prejudice to the generality of the provisions contained in sub-section (3) of section 119, every Income-tax Officer shall also observe and follow such instructions as may be issued to him for his guidance by the Deputy Commissioner (Assessment) within whose jurisdiction he performs his functions in relation to any particular proceeding or the initiation of any proceeding under this Act;

Provided that no instructions, which are prejudicial to the assessee, shall be issued before an opportunity is given to the assessee to be heard.

Explanation.—For the purposes of this sub-section, no instruction as to the lines on which an investigation connected with the assessment should be made shall be deemed to be an instruction prejudicial to the assessee.

(4) Where an order is made under sub-section (1) and the Deputy Commissioner (Assessment) exercises the powers or performs the functions of an Income-tax Officer in relation to any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, references in this Act or in any rule made thereunder to the Income-tax Officer shall be construed as including references to the Deputy Commissioner (Assessment), and accordingly—

(i) any provision of this Act requiring approval or sanction of the Deputy Commissioner (Assessment) shall not apply;

(ii) any appeal which would otherwise have lain to the Deputy Commissioner (Appeals) shall lie to the Commissioner;

(iii) any appeal which would have lain from an order of the Deputy Commissioner (Appeals) to the Appellate Tribunal shall lie from the order of the Commissioner.”.

Amend-
ment of
section
127.

33. In section 127 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more of the following officers subordinate to him, namely:—

(a) any Income-tax Officer or Income-tax Officers;

(b) any Income-tax Officer or Income-tax Officers having concurrent jurisdiction with the Deputy Commissioner (Assessment),

to any other Income-tax Officer or Income-tax Officers [whether with or without concurrent jurisdiction with the Deputy Commissioner (Assessment)] and the Board may similarly transfer any case from any one or more of the officers mentioned in clauses (a) and (b) to any one or more of the other officers aforesaid:

Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where the transfer is from any Income-tax Officer or Income-tax Officers [whether with or without concurrent jurisdiction with the Deputy Commissioner (Assessment)] to any other Income-tax Officer or Income-tax Officers [whether with or without concurrent jurisdiction with the Deputy Commissioner (Assessment)] and the offices of all such officers are situated in the same city, locality or place:

Provided further that—

(a) where any case has been transferred from any Income-tax Officer or Income-tax Officers to two or more Income-tax Officers, the Income-tax Officers to whom the case is so transferred shall have concurrent jurisdiction over such case and shall perform their functions in accordance with such general or spe-

cial orders in writing as the Board or the Commissioner or the Deputy Commissioner (Assessment) authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions;

(b) where any case has been transferred from any Income-tax Officer or Income-tax Officers [whether with or without concurrent jurisdiction with the Deputy Commissioner (Assessment)], to two or more Income-tax Officers with concurrent jurisdiction with the Deputy Commissioner (Assessment), the Officers [including the Deputy Commissioner (Assessment)] to whom the case is so transferred shall have concurrent jurisdiction over such case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner may make for the purpose of facilitating the performance of such functions, and the Income-tax Officers shall perform their functions also in accordance with such orders or directions as the Deputy Commissioner (Assessment) may make under sub-section (2) of section 124 or, as the case may be, under sub-section (2) of section 125A.”

34. In section 130A of the Income-tax Act, after clause (b), the following clause shall be inserted, namely:—

Amendment of section 130A.

“(c) in a case, where two or more Income-tax Officers have concurrent jurisdiction over such assessee in relation to any function, be the Income-tax Officers empowered to perform such function by the Board or, as the case may be, the Income-tax Officers to whom such function has been assigned by an order of the Commissioner or by an order or a direction of the Deputy Commissioner (Assessment) under sub-section (2) of section 124 or, as the case may be, under sub-section (2) of section 125A.”

35. In section 131 of the Income-tax Act,—

Amendment of section 131.

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) If the Assistant Director of Inspection has reason to suspect that any income has been concealed, or is likely to be concealed, by any person or class of persons, within his jurisdiction, then, for the purpose of making any enquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (1) on the Income-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other Income-tax authority.”;

(ii) in sub-section (3),—

(a) in the opening paragraph, after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted;

(b) in the proviso, for the words “an Income-tax Officer”, the words “an Income-tax Officer or an Assistant Director of Inspection” shall be substituted.

Amend-
ment of
section
132.

36. In section 132 of the Income-tax Act,—

(a) in sub-section (1),—

(i) in the opening paragraph, for the words “Where the Director of Inspection or the Commissioner,”, the following shall be substituted, namely:—

“Where the Director of Inspection or the Commissioner or any such Deputy Director of Inspection or Deputy Commissioner (Assessment) as may be empowered in this behalf by the Board,”;

(ii) in clause (c), for the words “which has not been disclosed”, the words “which has not been, or would not be, disclosed” shall be substituted;

(iii) for the portion beginning with the words “he may authorise” and ending with the brackets and words “(hereinafter referred to as the authorised officer) to—”, the following shall be substituted, namely:—

“then,—

(A) the Director of Inspection or the Commissioner, as the case may be, may authorise any Deputy Director of Inspection, Deputy Commissioner (Assessment), Assistant Director of Inspection or Income-tax Officer; or

(B) such Deputy Director of Inspection or Deputy Commissioner (Assessment), as the case may be, may authorise any Assistant Director of Inspection or Income-tax Officer,

(the officer so authorised in all cases being hereinafter referred to as the authorised officer) to—”;

(iv) in clause (i), for the words “building or place”, the words “building, place, vessel, vehicle or aircraft” shall be substituted;

(v) after clause (ii), the following clause shall be inserted, namely:—

“(iia) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;”;

(vi) the following proviso shall be inserted at the end, namely:—

“Provided that where any building, place, vessel, vehicle or aircraft referred to in clause (i) is within the area of jurisdiction of any Commissioner, but such Commissioner has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c), then, notwithstanding anything contained in section 121, it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the Commissioner having jurisdiction over

such person may be prejudicial to the interests of the revenue.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where any Commissioner, in consequence of information in his possession, has reason to suspect that any books of account, other documents, money, bullion, jewellery or other valuable article or thing in respect of which an officer has been authorised by the Director of Inspection or any other Commissioner or any such Deputy Director of Inspection or Deputy Commissioner (Assessment) as may be empowered in this behalf by the Board to take action under clauses (i) to (v) of sub-section (1) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), such Commissioner may, notwithstanding anything contained in section 121, authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.”;

(c) in sub-section (2), after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted;

(d) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed—

(i) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

(ii) that the contents of such books of account and other documents are true; and

(iii) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.”;

(e) in sub-section (5),—

(i) for the opening paragraph, the following shall be substituted, namely:—

“Where any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections

132A and 132B referred to as the assets) is seized under sub-section (1) or sub-section (1A) or requisitioned under section 132A, the Income-tax Officer, after affording a reasonable opportunity to the person concerned of being heard and making such enquiry as may be prescribed, shall, within ninety days of the seizure, make an order, with the previous approval of the Deputy Commissioner (Assessment),—”;

(ii) after clause (ii), the following clause shall be inserted, namely:—

“(iia) determining the amount of interest payable and the amount of penalty imposable in accordance with the provisions of the Indian Income-tax Act, 1922 or this Act, as if the order estimating the undisclosed income had been the order of regular assessment;”;

11 of 1922.

(iii) for the words, brackets and figures “clauses (ii) and (iii)”, at both the places where they occur, the words, brackets, figures and letter “clauses (ii), (iia) and (iii)” shall be substituted;

(iv) in the first proviso, after the words “the financial year in which the assets were seized”, the words “and may also determine the interest or penalty, if any, payable or imposable accordingly” shall be inserted;

(f) in sub-section (6), for the word, figures and letter “section 132A”, the word, figures and letter “section 132B” shall be substituted;

(g) in sub-section (8), after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted;

(h) in sub-section (9), after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted;

(i) after sub-section (9), the following sub-section shall be inserted, namely:—

“(9A) Where the authorised officer has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1), the books of account or other documents or assets seized under that sub-section shall be handed over by the authorised officer to the Income-tax Officer having jurisdiction over such person within a period of fifteen days of such seizure and thereupon the powers exercisable by the authorised officer under sub-section (8) or sub-section (9) shall be exercisable by such Income-tax Officer.”;

(j) in sub-section (10), after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted;

(k) in sub-section (13), after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted;

(l) in sub-section (14), in clause (i), for the words "such building or place", the words "any building, place, vessel, vehicle or aircraft" shall be substituted.

37. Section 132A of the Income-tax Act shall be re-numbered as section 132B thereof, and—

Amendment of section 132A.

(i) before that section as so-numbered, the following section shall be inserted, namely:—

'132A. (1) Where the Director of Inspection or the Commissioner, in consequence of information in his possession, has reason to believe that—

Power to requisition books of account, etc.

1 1922.

(a) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents, as required by such summons or notice and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, or

11 of 1922.

(b) any books of account or other documents will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 or under this Act and any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, or

11 of 1922.

(c) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of the Indian Income-tax Act, 1922 or this Act by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law for the time being in force,

then, the Director of Inspection or the Commissioner may authorise any Deputy Director of Inspection, Deputy Commissioner (Assessment), Assistant Director of Inspection or Income-tax Officer (hereafter in this section and in sub-section (2) of section 278D referred to as the requisitioning officer) to require the officer or authority referred to in clause (a) or clause (b) or clause (c), as the case may be, to deliver such books of account, other documents or assets to the requisitioning officer.

(2) On a requisition being made under sub-section (1), the officer or authority referred to in clause (a) or clause (b) or clause (c), as the case may be, of that sub-section shall deliver the books of account, other documents or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.

(3) Where any books of account, other documents or assets have been delivered to the requisitioning officer, the provisions of sub-sections (4A) to (14) (both inclusive) of section 132 and section 132B shall, so far as may be, apply as if such books of account, other documents or assets had been seized under sub-section (1) of section 132 by the requisitioning officer from the custody of the person referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of this section and as if for the words "the authorised officer", occurring in any of the aforesaid sub-sections (4A) to (14), the words, "the requisitioning officer" were substituted.;

(ii) in section 132B as so re-numbered, in sub-section (1), in clause (i), after the word "relates", the brackets and words "(including any penalty levied or interest payable in connection with such assessment or re-assessment)" shall be inserted.

Substitution of new section for section 133A.
Power of survey.

38. For section 133A of the Income-tax Act, the following section shall be substituted, namely:—

'133A. (1) Notwithstanding anything contained in any other provision of this Act, an Income-tax authority may enter—

(a) any place within the limits of the area assigned to him,
or

(b) any place occupied by any person in respect of whom he exercises jurisdiction,

at which a business or profession is carried on; whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession—

(i) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place,

(ii) to afford him the necessary facility to check or verify the cash, stock or other valuable article or thing which may be found therein, and

(iii) to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act.

Explanation.—For the purposes of this sub-section, a place where a business or profession is carried on shall also include any other place, whether any business or profession is carried on therein or not, in which the person carrying on the business or profession states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing relating to his business or profession are or is kept.

(2) An Income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession and, in the case of any other place, only after sunrise and before sunset.

(3) An Income-tax authority acting under this section may,—

(i) if he so deems necessary, place marks of identification on the books of account or other documents inspected by him and make or cause to be made extracts or copies therefrom,

(ii) make an inventory of any cash, stock or other valuable article or thing checked or verified by him,

(iii) record the statement of any person which may be useful for, or relevant to, any proceeding under this Act.

(4) An Income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any books of account or other documents or any cash, stock or other valuable article or thing.

(5) Where, having regard to the nature and scale of expenditure incurred by an assessee, in connection with any function, ceremony or event, the Income-tax authority is of the opinion that it is necessary or expedient so to do, he may, at any time after such function, ceremony or event, require the assessee by whom such expenditure has been incurred or any person who, in the opinion of the Income-tax authority, is likely to possess information as respects the expenditure incurred, to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act and may have the statements of the assessee or any other person recorded and any statement so recorded may thereafter be used in evidence in any proceeding under this Act.

(6) If a person under this section is required to afford facility to the Income-tax authority to inspect books of account or other documents or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded either refuses or evades to do so, the Income-tax authority shall have all the powers under sub-sections (1) and (2) of section 131 for enforcing compliance with the requirement made

Explanation.—In this section,—

(a) "Income-tax authority" means a Deputy Commissioner (Assessment), an Assistant Director of Inspection or Income-tax Officer, and for the purposes of clause (i) of sub-section (1), clause (i) of sub-section (3) and sub-section (5), includes an Inspector of Income-tax, if so authorised by the Income-tax Officer;

(b) "proceeding" means any proceeding under this Act in respect of any year which may be pending on the date on which the powers under this section are exercised or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.

39. In section 139 of the Income-tax Act,—

(i) after sub-section (1), the following sub-sections shall be inserted namely:—

"(1A) Every person other than a company,—

(i) carrying on any business, whose total sales, turnover or receipts exceed or exceeds five hundred thousand

Amendment of
section
139.

rupees or whose profits before deducting the tax payable under this Act exceed fifty thousand rupees, in any previous year, or

(ii) carrying on any profession, whose total receipts exceed five hundred thousand rupees or whose income before deducting the tax payable under this Act exceeds fifty thousand rupees, in any previous year,

shall, while furnishing a return of his income, also furnish a report of the audit of the accounts on which such return is based.

(1B) For the purposes of sub-section (1A), the audit shall be conducted by an accountant as defined in the *Explanation* to section 288 and the report shall be in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.”;

(ii) in sub-section (2), for the words “serve a notice upon him”, the words “issue a notice to him and serve the same upon him” shall be substituted;

(iii) for sub-section (6), the following sub-sections shall be substituted, namely:—

“(6) The prescribed form of the returns referred to in sub-sections (1), (2) and (3) shall, in such cases as may be prescribed, require the assessee to furnish the particulars of income exempt from tax, assets of the prescribed nature and value and belonging to him, expenditure exceeding the prescribed limits incurred by him under prescribed heads and such other outgoings as may be prescribed.

(6A) Without prejudice to the provisions of sub-section (6), the prescribed form of the returns referred to in sub-sections (1), (2) and (3) shall, in the case of an assessee engaged in any business or profession, also require him to furnish particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof, the names and addresses of his partners, if any, in such business or profession and if he is a member of an association or body of individuals, the names of the other members of the association or the body of individuals and the extent of the share of the assessee and the shares of all such partners or the members, as the case may be, in the profits of the business or profession and any branches thereof.”.

Insertion of new section 139A. Permanent account numbers.

40. After section 139 of the Income-tax Act, the following section shall be inserted, namely:—

139A (1) Every person, if his total income or the income of any other person in respect of which he is assessable under this Act during any accounting year exceeded the maximum amount which is not chargeable to income-tax and who has not been allotted any

permanent account number, shall, within such time as may be prescribed, apply to the Income-tax Officer for the allotment of a permanent account number.

(2) Notwithstanding anything contained in sub-section (1), every person not falling under that sub-section, but carrying on any business whose total sales, turnover or receipts are or is likely to exceed fifty thousand rupees in any accounting year and who has not been allotted any permanent account number, shall, within such time as may be prescribed, apply to the Income-tax Officer for the allotment of a permanent account number.

(3) The Income-tax Officer may also allot to any other person by whom tax is payable, a permanent account number.

(4) Where a permanent account number had been allotted to any assessee before the commencement of the Taxation Laws (Amendment) Act, 1973, the Board may, by notification in the Official Gazette, declare that such permanent account number shall be deemed to have been allotted under the provisions of this section with effect from such date as may be specified in the notification.

(5) Where a permanent account number has been allotted or deemed to have been allotted to any person under this section, he shall—

(a) quote such number in all his returns to, or correspondence with, any Income-tax authority;

(b) quote such number in all documents pertaining to such transactions as may be prescribed by the Board in the interests of the revenue, and entered into by him;

(c) intimate the Income-tax Officer any change in his address or in the name and nature of his business.

(6) The Board may make rules providing for—

(a) the form and the manner in which an application may be made for the allotment of a permanent account number and the particulars which such application shall contain;

(b) the categories of transactions in relation to which permanent account numbers shall be quoted by the persons to whom such numbers have been allotted, in the documents pertaining to such transactions.

Explanation.—In this section,—

(a) “accounting year” means,—

(i) in relation to a person maintaining accounts, the year ending on the day on which such accounts are or are to be closed and balanced;

(ii) in relation to any other person, the financial year;

(b) "permanent account number" means a number which the Income-tax Officer may allot to any person for the purpose of identification.

Amend-
ment of
section
140.

41. In section 140 of the Income-tax Act, for clauses (c) and (d), the following clauses shall be substituted, namely:—

"(c) in the case of a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign and verify the return, or where there is no managing director, by any other director thereof or any other person, for the time being mainly in charge of the affairs of the company;

(cc) in the case of a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign and verify the return, or where there is no managing partner as such, by any partner for the time being mainly in charge of the affairs of the firm;

(d) in the case of a local authority, by the principal officer thereof;"

Amend-
ment of
section
140A.

42. In section 140A of the Income-tax Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Where the tax payable on the basis of any return furnished under section 139 or section 148, as reduced by any tax already paid under any provision of this Act, exceeds five hundred rupees, the assessee shall be liable to pay such tax on or before furnishing the return and the return shall be accompanied by proof of payment of such tax;"

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) If any assessee fails to pay the tax or any part thereof in accordance with the provisions of sub-section (1), the Income-tax Officer may direct that a sum equal to two per cent. of such tax or part thereof, as the case may be, shall be recovered from him by way of penalty for every month during which the default continues:

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard."

Amend-
ment of
section
141A.

43. In section 141A of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Where a return has been furnished under section 139 and the assessee claims that the tax paid or deemed to have been paid under the provisions of Chapter XVII-B, or Chapter XVII-C, exceeds the tax payable on the basis of the return and the accounts and documents accompanying it, the Income-tax Officer, if he is of the opinion that the regular assessment of the assessee is not likely to be made within six months from the date of furnishing of the return, shall make in a summary manner within the said six months a provisional assessment of the sum refundable to the assessee, after

making such adjustments to the income or loss declared in the return as are required to be made under sub-section (2) with reference to such return, accounts and documents, and for the purposes of the adjustments referred to in clause (iv) of sub-section (2), also with reference to the records of the assessments, if any, of past years."

44. In sub-section (1) of section 142 of the Income-tax Act, for the words, brackets and figures "or upon whom a notice has been served under sub-section (2) of section 139", the words, brackets and figures "or to whom a notice has been issued under sub-section (2) of section 139" shall be substituted.

Amendment of section 142.

45. After section 144 of the Income-tax Act, the following sections shall be inserted, namely:--

Insertion of new sections 144A and 144B.

"144A. (1) A Deputy Commissioner (Assessment) may, on his own motion or on a reference being made to him by the Income-tax Officer or on the application of an assessee, call for and examine the record of any proceeding in which an assessment is pending and, if he considers that, having regard to the nature of the case or the amount involved or for any other reason it is necessary or expedient so to do, he may issue such directions as he thinks fit for the guidance of the Income-tax Officer to enable him to complete the assessment and such directions shall be binding on the Income-tax Officer:

Power of Deputy Commissioner (Assessment) to issue directions in certain cases.

Provided that no directions which are prejudicial to the assessee shall be issued before an opportunity is given to the assessee to be heard.

Explanation.—For the purposes of this sub-section, no direction as to the lines on which an investigation connected with the assessment should be made, shall be deemed to be a direction prejudicial to the assessee.

(2) The provisions of this section shall be in addition to, and not in derogation of, the provisions contained in sub-section (3) of section 119.

144B. (1) Notwithstanding anything contained in this Act, where an addition to the income returned or a disallowance of any deduction claimed which is proposed to be made by an Income-tax Officer is in the aggregate not less than the amount fixed by the Board under sub-section (2), the Income-tax Officer shall, in the first instance, forward a draft of the proposed order of assessment to the assessee and, if the assessee objects to the addition or disallowance, he may apply to the Deputy Commissioner (Assessment) within seven days of the date of receipt by him of the draft order or within such extended period not exceeding fifteen days as the Deputy Commissioner (Assessment) may allow on an application made to him in this behalf, and the Deputy Commissioner (Assessment) may make an assessment of the total income or loss of the assessee and determine the sum payable by him or refundable to him on the basis of such assessment, whether as proposed in the draft order or by making such alterations therein as may be necessary, and for this purpose he shall have all the powers conferred on an Income-tax Officer under this Act:

Power of Deputy Commissioner (Assessment) to make orders of assessment in certain cases.

Provided that before making an order of assessment under this sub-section, the Deputy Commissioner (Assessment) shall give an opportunity to the assessee and the Income-tax Officer to be heard.

(2) For the purposes of sub-section (1), the Board may, having regard to the proper and efficient management of the work of assessment, by order, fix, from time to time, such amount as it deems fit:

Provided that different amounts may be fixed for different areas:

Provided further that the amount fixed under this sub-section shall, in no case, be less than twenty-five thousand rupees.

(3) Where any order of assessment is made by the Deputy Commissioner (Assessment) under sub-section (1), it shall be competent for him to exercise, in relation to such order of assessment, the powers of an Income-tax Officer under sections 271 and 273.

(4) Where a Deputy Commissioner (Assessment) passes any order under this section,—

(i) any provision of this Act requiring approval or sanction of the Deputy Commissioner (Assessment) shall not apply:

(ii) any appeal which would otherwise have lain to the Deputy Commissioner (Appeals) shall lie to the Commissioner;

(iii) any appeal which would have lain from an order of the Deputy Commissioner (Appeals) to the Appellate Tribunal shall lie from the order of the Commissioner.”

Amend-
ment of
section
146.

46. Section 146 of the Income-tax Act shall be re-numbered as sub-section (1) thereof, and after that sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Every application made under sub-section (1) shall be disposed of within thirty days from the date of receipt thereof by the Income-tax Officer:

Provided that in computing the period of thirty days aforesaid, any delay in disposing of the application which is attributable to the assessee shall be excluded.”

Amend-
ment of
section
153.

47. In section 153 of the Income-tax Act, for *Explanation 1*, the following *Explanation* shall be substituted, namely:—

“*Explanation 1.*—In computing the period of limitation for the purposes of this section—

(i) the time taken in re-opening the whole or any part of the proceeding,

(ii) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129,

(iii) the time taken in the prosecution of any person for any offence under this Act committed by him in the course of any assessment proceeding under this Act (such time being computed from the date of the filing of the complaint to the date of its final disposal), and

(iv) the period during which the assessment proceeding is stayed by an order or injunction of any court, shall be excluded."

48. In sub-section (1) of section 154 of the Income-tax Act, clause (bb) shall be omitted.

Amendment of section 154.

49. In section 176 of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment of section 176.

"(3A) Where any business is discontinued in any year, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance."

50. In section 179 of the Income-tax Act, for the portion beginning with the word "Notwithstanding" and ending with the words "after its liquidation", the following shall be substituted, namely:—

Amendment of section 179.

1 of 1956.

"Notwithstanding anything contained in the Companies Act, 1956, where any tax assessed on a private company during its existence or in the course of or after its liquidation".

51. In Chapter XV of the Income-tax Act, under the heading "N.—*Special provisions for certain kinds of income*", after section 180, the following section shall be inserted, namely:—

Insertion of new section 180A.

"180A. (1) Where any part of the remuneration payable to a person to whom this section applies (hereafter in this section referred to as the annuitant) is in the form of an annuity and the contract thereto providing for the payment of periodical sums thereunder is approved by the Commissioner under sub-section (2), then, such annuitant shall be taxed in respect of such remuneration only when such periodical sums become payable and tax shall be charged for any assessment year on the sum so receivable by him in the relevant previous year.

Special provision for actors, film artistes, etc.

(2) Subject to any rules made by the Board in this behalf, the Commissioner shall not approve any contract for the payment of an annuity unless he is satisfied that—

(a) such contract provides for the first of the periodical sums referred to in sub-section (1) to become payable before the expiry of a period of five years from the date on which it has been entered into;

(b) such contract provides for the payment of annuity over a period which shall in no case exceed ten years;

(c) not more than seventy-five per cent. of the entire remuneration payable to the annuitant is converted into the form of annuity;

(d) such contract provides that in case of death of the annuitant before the annuity ceases to be payable, payment under such contract shall continue to be made to his heirs or

assigns, as the case may be, on the same periodical basis as before his death.

(3) Where a contract for the payment of an annuity approved by the Commissioner under sub-section (2) provides for the payment thereof to the heirs or assigns of an annuitant in case of his death, any payment made under the contract to such heirs or assigns in pursuance thereof shall be liable to tax under this Act as if it were a part of the income of such heirs or assigns in the previous year in which it was made.

(4) Where a contract for the payment of an annuity approved by the Commissioner under sub-section (2) provides for the surrender, commutation or assignment of the annuity payable under such contract by the annuitant or by his heirs or assigns, then, the whole of the sum payable on such surrender, commutation or assignment shall be liable to tax as part of the income of the annuitant or, as the case may be, of the heirs or assigns for the previous year in which the surrender, commutation or assignment is made, at the rate or rates of tax in force in the assessment year relevant to such previous year.

(5) This section applies to any person who is engaged—

(a) as a professional actor on the stage;

(b) as a professional sportsman;

(c) as a film actor;

(d) in any other activity in the film industry to which, having regard to the duration of the period for which a person is likely to be engaged in such other activity, the Central Government, by notification in the Official Gazette, declares this section to apply.”

Amend-
ment of
section
185.

52. In section 185 of the Income-tax Act, in sub-section (1), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

“*Explanation*.—For the purposes of this section and section 186, a firm shall not be regarded as a genuine firm if any partner of the firm was, in relation to the whole or any part of his share in the income or property of the firm, at any time during the previous year, a *benamidar*—

(a) of any other partner to whom the first-mentioned partner does not stand in the relationship of a spouse or minor child, or

(b) of any person, not being a partner of the firm, and any of the other partners knew or had reason to believe that the first-mentioned partner was such *benamidar*.”

Amend-
ment of
section
189

53. In section 189 of the Income-tax Act, in sub-section (3), the following *Explanation* shall be inserted, namely:—

“*Explanation*.—The amount of tax referred to in this sub-section shall also include that part of the share of each partner in the income of the firm before its discontinuance or dissolution which the firm could have retained under sub-section (4) of section 182 but which has not been so retained.”

54. In sub-section (1) of section 221 of the Income-tax Act, after the second proviso, the following *Explanation* shall be inserted, namely:—

Amend-
ment of
section
221.

“Explanation.—For the removal of doubt, it is hereby declared that an assessee shall not cease to be liable to any penalty under this sub-section merely by reason of the fact that before the levy of such penalty he has paid the tax.”.

55. In sub-section (1) of section 222 of the Income-tax Act, the following *Explanation* shall be inserted, namely:—

Amend-
ment of
section
222.

“Explanation.—For the purposes of this sub-section, the assessee's movable or immovable property shall include any property which has been transferred by the assessee to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property so transferred to his minor child or his son's minor child is concerned, it shall even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the assessee's movable or immovable property for recovering any arrears due from the assessee in respect of any period prior to such date.”.

56. In section 223 of the Income-tax Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amend-
ment of
section
223.

“(2) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer to whom a certificate is sent by an Income-tax Officer—

(a) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction, or

(b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Chapter, it is necessary so to do,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to a Tax Recovery Officer within whose jurisdiction the assessee resides or has property, and thereupon that Tax Recovery Officer shall also proceed to recover the amount under this Chapter as if the certificate or the copy thereof had been the certificate sent to him by the Income-tax Officer.”.

57. In section 244 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amend-
ment of
section
244.

“(1A) Where the whole or any part of the refund referred to in sub-section (1) is due to the assessee, as a result of any amount having been paid by him in pursuance of any order of assessment or penalty and such amount or any part thereof having been found in appeal or other proceeding under this Act to be in excess of the amount which such assessee is liable to pay as tax or penalty or both, as the case may be, under this Act, the Central Government shall pay to such assessee simple interest at the rate specified in sub-section (1) on the amount so found to be in excess—

(i) from the date such amount was paid; or

(ii) where such amount was paid in instalments, from the date or dates on which any payment made came to be in excess of the amount due from such assessee as a result of the appeal or other proceeding,
to the date on which the refund is granted:

Provided that no interest under this sub-section shall be payable for a period of one month from the date of the passing of the order in appeal or other proceeding:

Provided further that where any interest is payable to an assessee under this sub-section, no interest under sub-section (1) shall be payable to him in respect of the amount so found to be in excess.”.

Insertion
of new
Chapter
XIXA.

58. After Chapter XIX of the Income-tax Act, the following Chapter shall be inserted, namely:—

‘CHAPTER XIXA SETTLEMENT OF CASES

Defini-
tions,

245A. In this Chapter, unless the context otherwise requires,—

(a) “case” means any proceeding under the Indian Income-tax Act, 1922, or under this Act for or in connection with the assessment or re-assessment of any person in respect of any year or years which may be pending before an Income-tax authority on the date on which an application under sub-section (1) of section 245C is made;

11 of 1922.

(b) “Income-tax authority” means a Director of Inspection, a Commissioner, a Deputy Commissioner (Appeals), a Deputy Commissioner (Assessment) or an Income-tax Officer.

Income-
tax
Settle-
ment
Committee.

245B. (1) The Board may constitute from amongst its members a committee to be known as the Income-tax Settlement Committee (hereafter in this Chapter referred to as the Settlement Committee) for the settlement of cases under this Chapter.

(2) The Settlement Committee constituted under sub-section (1) shall consist of not less than three members and shall function for such period as the Board may specify in this behalf.

Applica-
tion for
settle-
ment of
cases.

245C. (1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner and containing such particulars as may be prescribed to the Settlement Committee to have the case settled and any such application shall be disposed of in the manner hereinafter provided.

(2) Every application made under sub-section (1) shall be accompanied with such fees as may be prescribed.

(3) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.

Proce-
dure on
receipt
of an
applica-
tion
under
section
245C.

245D. (1) On receipt of an application under section 245C, the Settlement Committee may call for a report from the Income-tax authority concerned and on the basis of the materials contained in such report and having regard to the interests of the revenue and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Committee may, by order, allow all the matters covered by the application or any part thereof to be proceeded with or reject the application:

Provided that no matter covered by the application shall be proceeded with if the Settlement Committee is of the opinion that concealment of particulars of the income on the part of the applicant or perpetration of fraud by him on any Income-tax authority for evading any tax or other sum payable under this Act has been established by any Income-tax authority:

Provided further that no order under this sub-section rejecting an application or disallowing any matter covered by it to be proceeded with shall be passed unless an opportunity has been given to the applicant of being heard.

(2) A copy of every order passed under sub-section (1) shall be sent to the applicant and to the Income-tax authority concerned.

(3) Where all the matters or any part thereof covered by the application is allowed to be proceeded with under sub-section (1), the Settlement Committee may call for the relevant records from the Income-tax authority concerned and after examination of such records, if the Settlement Committee is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Income-tax authority concerned to make such further enquiry or investigation and furnish a report thereof.

(4) After examination of the records and the report, if any, of the Income-tax authority concerned, received under sub-section (3), and after giving an opportunity to the applicant and to the Income-tax authority concerned to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Committee may pass such order on the application, in accordance with the provisions of this Act, as it thinks fit.

(5) The materials brought on record before the Settlement Committee shall be considered by all the members thereof before passing any order under sub-section (4) and, in the case of a difference of opinion among the members, the opinion of the majority shall prevail and such order shall be expressed in terms of the views of the majority.

(6) Every order passed under sub-section (4) shall provide for the terms of settlement including any demand by way of tax, penalty or interest, the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Committee that it has been obtained by fraud or misrepresentation of facts.

245E. If the Settlement Committee is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under the Indian Income-tax Act, 1922, or under this Act by any Income-tax authority before the application under section 245C was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such orders thereon as it thinks

Power of Settlement Committee to reopen completed proceedings.

fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also:

Provided that no proceeding shall be reopened by the Settlement Committee under this section after the expiry of a period of eight years from the end of the assessment year to which such proceeding relates.

Powers
and pro-
cedure of
Settle-
ment
Committee.

245F. (1) In addition to the powers conferred on the Settlement Committee under this Chapter, it shall have all the powers which are vested in an Income-tax authority under this Act.

(2) Where the matters covered by an application made under section 245C or any part thereof have been allowed to be proceeded with under section 245D, the Settlement Committee shall, until an order is passed by it under sub-section (4) of section 245D, have exclusive jurisdiction to exercise the powers and perform the functions of an Income-tax authority under this Act in relation to such matters.

(3) Notwithstanding anything contained in sub-section (2) and in the absence of any express direction to the contrary by the Settlement Committee, nothing contained in this section shall affect the operation of any other provision of this Act requiring the applicant to pay tax on the basis of self-assessment or by way of advance tax in relation to the matter or matters allowed to be proceeded with by the Settlement Committee.

(4) For the removal of doubt, it is hereby declared that in the absence of any express direction to the contrary by the Settlement Committee, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matter other than that allowed to be proceeded with by the Settlement Committee.

(5) The Settlement Committee shall, subject to the provisions of this Chapter, have power to regulate its own procedure (including the fixation of places and times of its meetings) and may act notwithstanding that all the members of the Settlement Committee are not present at any of its meetings.

Inspection,
etc.,
of re-
ports.

245G. No person shall be entitled to inspect, or obtain copies of, any reports made by any Income-tax authority to the Settlement Committee; but the Settlement Committee may, in its discretion, furnish copies thereof to any such person on an application made to it in this behalf and on payment of the prescribed fee:

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on record against him in any such report, the Settlement Committee shall, on an application made in this behalf, and on payment of the prescribed fee by such person, furnish him with a certified copy of any such report or part thereof relevant for the purpose.

45 of 1860.

245H. (1) The Settlement Committee may, if it is satisfied that any person who made the application for settlement under section 245C has co-operated with the Settlement Committee in the proceedings before it and has made a full and true disclosure of his income and the manner in which such income has been derived, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act, with respect to the case covered by the settlement.

Power of Settlement Committee to grant immunity from prosecution and penalty.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Committee, if it is satisfied that such person has not complied with the conditions subject to which the immunity was granted or that such person had, in the course of the settlement proceedings, concealed any particulars material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.

245I. Every order of settlement passed under sub-section (4) of section 245D shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

Order of settlement to be conclusive.

245J. Any sum specified in an order of settlement passed under sub-section (4) of section 245D may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered in accordance with the provisions of Chapter XVII, by the Income-tax Officer having jurisdiction over the person who made the application for settlement under section 245C.

Recovery of sums due under order of settlement

245K. Where,—

(i) an order of settlement passed under sub-section (4) of section 245D provides for the imposition of a penalty on the person who made the application under section 245C for settlement, on the ground of concealment of particulars of his income; or

(ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter XXII in relation to that case, then, he shall not be entitled to apply for settlement under section 245C in relation to any other matter.

59. In section 246 of the Income-tax Act, in clause (o),—

Amendment of section 246.

(i) after sub-clause (iii), the following sub-clause shall be inserted, namely:—

“(iv) section 271A, or”;

(ii) after sub-clause (iv), the following sub-clause shall be inserted, namely:—

“(iva) section 272B, or”.

Amend-
ment of
section
249.

60. In section 249 of the Income-tax Act,—

(i) in sub-section (2), for clause (b), the following clause shall be substituted, namely:—

“(b) where the appeal relates to any assessment or penalty, the date of service of the notice of demand relating to the assessment or penalty:

Provided that where an application has been filed under section 146 for reopening an assessment, the period from the date on which the application is made to the date on which the order passed on the application is served on the assessee shall be excluded, or”;

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) No appeal under this section shall be admitted unless at the time of filing of the appeal—

(a) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him; or

(b) where no return has been filed by the assessee, the assessee has paid an amount equal to the amount of advance tax which was payable by him:

Provided that, on an application made by the appellant in this behalf, the Deputy Commissioner (Appeals) may, for any good and sufficient reason to be recorded in writing, exempt him from the operation of the provisions of this sub-section.”.

Amend-
ment of
section
252.

61. In sub-section (2) of section 252 of the Income-tax Act, for the words “who has served as an Assistant Commissioner of Income-tax for at least three years.”, the following shall be substituted, namely:—

“who has served for at least three years,—

(i) before the commencement of the Taxation Laws (Amendment) Act, 1973, as an Assistant Commissioner of Income-tax; or

(ii) after such commencement, as a Deputy Commissioner of Income-tax,

or partly as an Assistant Commissioner of Income-tax and partly as a Deputy Commissioner of Income-tax.”.

Amend-
ment of
section
253.

62. In section 253 of the Income-tax Act, in sub-section (1),—

(i) in clause (a), for the words and figures “or section 271”, the words, figures and letters “, section 271, section 271A or section 272A” shall be substituted;

(ii) in clause (b), for the words, brackets and figures “sub-section (2) of section 274”, the word, figures and letter “section 272A” shall be substituted;

(iii) in clause (c), after the words and figures “under section 263”, where they occur for the first time, the words, figures and letter “or under section 272A” shall be inserted.

63. In section 269A of the Income-tax Act, in clause (b), for the words "an Assistant Commissioner of Income-tax", the words "a Deputy Commissioner of Income-tax" shall be substituted.

Amendment of section 269A.

64. In section 271 of the Income-tax Act,—

Amendment of section 271.

(i) in sub-section (1),—

(a) after clause (a), the following clause shall be inserted, namely:—

"(aa) has, without reasonable cause, failed to furnish the return of total income which he was required to furnish under sub-section (4A) of section 139 or has, without reasonable cause, failed to furnish it within the time allowed and in the manner required by sub-section (1) of section 139, or";

(b) in clause (i), the words "but not exceeding in the aggregate fifty per cent. of the tax" shall be omitted;

(c) after clause (i), the following clause shall be inserted, namely:—

"(ia) in the cases referred to in clause (aa), in addition to the amount of the tax, if any, payable by him, a sum not exceeding one per cent. of the total income of the trust (the total income for this purpose being computed under this Act without giving effect to the provisions of sections 11 and 12) for each year or part thereof during which the default continued;";

(d) for clause (iii) and the *Explanation*, the following clause and *Explanations* shall be substituted, namely:—

"(iii) in the cases referred to in clause (c) in addition to any tax payable by him, a sum which shall not be less than, but which shall not exceed twice, the amount of tax sought to be evaded by reason of the concealment of particulars of his income or the furnishing of inaccurate particulars of such income:

Provided that if in a case falling under clause (c), the amount of income (as determined by the Income-tax Officer on assessment) in respect of which the particulars have been concealed or inaccurate particulars have been furnished, exceeds a sum of twenty-five thousand rupees, the Income-tax Officer shall not issue any direction for payment by way of penalty without the previous approval of the Deputy Commissioner (Assessment).

Explanation 1.—Where in respect of any facts material to the computation of the total income of any person under this Act,—

(A) such person fails to offer an explanation, or

(B) such person offers an explanation which he is not able to substantiate or which is found by the Income-tax Officer or the Deputy Commissioner (Appeals) to be false,

then, the amount added or disallowed in computing the total income of such person as a result thereof shall, for the purposes of clause (c) of this sub-section, be deemed to represent the income in respect of which particulars have been concealed.

Explanation 2.—Where the source of any receipt, deposit, outgoing or investment in any assessment year is claimed by any person to be an amount which had been added in computing the income or deducted in computing the loss in the assessment of such person for any earlier assessment year or years but in respect of which no penalty under clause (iii) of this sub-section had been levied, that part of the amount so added or deducted in such earlier assessment year immediately preceding the year in which the receipt, deposit, outgoing or investment appears (such earlier assessment year hereafter in this *Explanation* referred to as the first preceding year) which is sufficient to cover the amount represented by such receipt, deposit or outgoing or value of such investment (such amount or value hereafter in this *Explanation* referred to as the utilised amount) shall be treated as the income of the assessee, particulars of which had been concealed or inaccurate particulars of which had been furnished for the first preceding year; and where the amount so added or deducted in the first preceding year is not sufficient to cover the utilised amount, that part of the amount so added or deducted in the year immediately preceding the first preceding year which is sufficient to cover such part of the utilised amount as is not so covered shall be treated to be the income of the assessee, particulars of which had been concealed or inaccurate particulars of which had been furnished for the year immediately preceding the first preceding year and so on, until the entire utilised amount is covered by the amounts so added or deducted in such earlier assessment years.

Explanation 3.—Where any person who has not previously been assessed under the Indian Income-tax Act, 1922, or under this Act, fails, without reasonable cause, to furnish within the period specified in sub-clause (iii) of clause (a) of sub-section (1) of section 153 a return of his income which he is required to furnish under section 139 in respect of any assessment year commencing on or after the 1st day of April, 1972, and, until the expiry of the period aforesaid, no notice has been issued to him under sub-section (2) of section 139 or section 148 and the Income-tax Officer or the Deputy Commissioner (Appeals) is satisfied that in respect of such assessment year such person has taxable income, then, such person shall, for the purposes of clause (c) of this sub-section, be deemed to have concealed the particulars of his income in respect of such assessment year, notwithstanding that such person furnishes a return of his income at any time after the expiry of the period aforesaid in pursuance of a notice under section 148.

Explanation 4.—For the purposes of clause (iii) of this sub-section, the expression “the amount of tax sought to be evaded”—

(a) in any case where—

(i) the amount of the income in respect of which particulars have been concealed; or

(ii) the amount of difference between the income returned and the income assessed in so far as it is due to the furnishing of inaccurate particulars of income; or

(iii) the aggregate of such amounts, exceeds the total income assessed, means the tax that would have been assessable on the income in respect of which particulars have been concealed or on the amount of difference or, as the case may be, on the aggregate of such amounts, had such amount or the amount of difference or the aggregate, as the case may be, been the total income;

(b) in any other case, means the difference between the tax on the total income assessed and the tax that would have been assessable had the assessed total income been reduced by—

(i) the amount of income in respect of which the particulars have been concealed; or

(ii) the amount of difference between the income returned and the income assessed in so far as it is due to the furnishing of inaccurate particulars of income; or

(iii) the aggregate of such amounts, as the case may be;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where any penalty is imposable by virtue of *Explanation 2* to sub-section (1), proceedings for the imposition of such penalty may be initiated notwithstanding that any proceedings under this Act in the course of which such penalty proceedings could have been initiated under sub-section (1) have been completed.”;

(iii) in sub-section (3), after clause (c), the following clause shall be inserted, namely:—

“(d) the penalty imposed under clause (i) of sub-section (1) and the penalty imposed under clause (iii) of that sub-section, read with *Explanation 3* thereto, shall not exceed in the aggregate twice the amount of the tax sought to be evaded.”;

(iv) sub-sections (4A) and (4B) shall be omitted.

65. After section 271 of the Income-tax Act, the following section shall be inserted, namely:—

Insertion
of new
section
271A.

Failure to keep, maintain or retain books of account, documents, etc.

Insertion of new sections 272A and 272B.

Penalty for failure to answer questions, sign statements, allow inspections, etc.

"271A. Without prejudice to the provisions of section 271, if any person, without reasonable cause, fails to keep and maintain any such books of account and other documents as required by section 44B or the rules made thereunder, in respect of any previous year or to retain such books of account and other documents for the period specified in the said rules, the Income-tax Officer or the Deputy Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum which shall not be less than ten per cent. but which shall not exceed fifty per cent. of the amount of the tax, if any, which would have been avoided if the income returned by such person had been accepted as the correct income."

66. After section 272 of the Income-tax Act, the following sections shall be inserted, namely:—

"272A. (1) If a person,—

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question demanded of him by an Income-tax Officer or a Deputy Commissioner (Appeals) or a Deputy Commissioner (Assessment) or a Commissioner in the exercise of his powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceeding under this Act which an Income-tax Officer or a Deputy Commissioner (Appeals) or a Deputy Commissioner (Assessment) or a Commissioner may legally require him to sign,

he shall pay, by way of penalty, a sum which may extend to one thousand rupees.

(2) If a person, without reasonable cause or excuse, fails,—

(a) to furnish in due time any of the returns or statements mentioned in section 133, section 206, section 285 or section 286; or

(b) to allow inspection of any register referred to in section 134 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or

(c) to furnish a certificate as required by section 203; or

(d) to deduct and pay tax as required by sub-section (2) of section 226,

he shall pay, by way of penalty, a sum which may extend to ten rupees for every day during which the failure continues.

(3) No order shall be made under this section except by a Deputy Commissioner (Appeals) or a Deputy Commissioner (Assessment) or a Commissioner and where a contravention of the provisions of this section occurs in the course of any proceeding before an Income-tax Officer, the Income-tax Officer shall refer the case to the Deputy Commissioner (Assessment) for passing such orders as he deems fit.

(4) No order under this section shall be passed by any officer referred to in sub-section (3) unless the person on whom the

penalty is proposed to be imposed is given an opportunity of being heard in the matter by such officer.

272B. (1) If a person, without reasonable cause, fails to comply with the provisions of section 139A, he shall, on an order passed by the Income-tax Officer, pay, by way of penalty, a sum which may extend to five hundred rupees.

Penalty for failure to comply with the provisions of section 139A.

(2) No order under sub-section (1) shall be passed unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter."

67. After section 273 of the Income-tax Act, the following section shall be inserted, namely:—

Insertion of new section 273A.

"273A. (1) Notwithstanding anything contained in this Act, the Commissioner may, in his discretion, whether on his own motion or otherwise,—

Power to reduce or waive penalty, etc., in certain cases.

(i) reduce or waive the amount of penalty imposed or imposable on a person under clause (i) of sub-section (1) of section 271 for failure, without reasonable cause, to furnish the return of total income which he was required to furnish under sub-section (1) of section 139; or

(ii) reduce or waive the amount of penalty imposed or imposable on a person under clause (iii) of sub-section (1) of section 271; or

(iii) reduce or waive the amount of interest paid or payable under sub-section (8) of section 139 or section 215 or section 217 or the penalty imposed or imposable under section 273,

if he is satisfied that such person—

(a) in the case referred to in clause (i), has, prior to the issue of a notice to him under sub-section (2) of section 139, voluntarily and in good faith made full and true disclosure of his income;

(b) in the case referred to in clause (ii), has, prior to the detection by the Income-tax Officer, of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, made full and true disclosure of such particulars;

(c) in the cases referred to in clause (iii), has, prior to the issue of a notice to him under sub-section (2) of section 139, or where no such notice has been issued and the period for the issue of such notice has expired, prior to the issue of notice to him under section 148, voluntarily and in good faith made full and true disclosure of his income and has paid the tax on the basis of his return,

and also has, in all the cases referred to in clauses (a), (b) and (c), co-operated in any enquiry relating to the assessment of his income and has either paid or made satisfactory arrangements for the payment of any tax or interest payable in consequence of an order passed under this Act in respect of the relevant assessment year.

Explanation.—For the purposes of this sub-section, a person shall be deemed to have made full and true disclosure of his income or of the particulars relating thereto in any case where the excess of income assessed over the income returned is of such a nature as not to attract the provisions of clause (c) of sub-section (1) of section 271.

(2) Notwithstanding anything contained in sub-section (1),—

(a) if in a case the penalty imposed or imposable under clause (i) of sub-section (1) of section 271 or the minimum penalty imposable under section 273 for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the aggregate of the penalty imposed or imposable under the said clause and the minimum penalty imposed or imposable under the said section for those years, exceeds a sum of fifty thousand rupees, or

(b) if in a case falling under clause (c) of sub-section (1) of section 271, the amount of income in respect of which the penalty is imposed or imposable for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the aggregate amount of such income for those years, exceeds a sum of five hundred thousand rupees,

no order reducing or waiving the penalty under sub-section (1) shall be made by the Commissioner except with the previous approval of the Board.

(3) Where an order has been made under sub-section (1) in favour of any person, whether such order relates to one or more assessment years, he shall not be entitled to any relief under this section in relation to any other assessment year at any time after the making of such order.

(4) Without prejudice to the powers conferred on him by any other provision of this Act, the Commissioner may, on an application made in this behalf by an assessee, and after recording his reasons for so doing, reduce or waive the amount of any penalty payable by the assessee under this Act or stay or compound any proceeding for the recovery of any such amount, if he is satisfied that—

(i) to do otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case; and

(ii) the assessee has co-operated in any enquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

(5) Every order made under this section shall be final and shall not be called into question by any court or any other authority."

Amend-
ment of
section
274.

68. In section 274 of the Income-tax Act, sub-section (2) shall be omitted.

69. In section 275 of the Income-tax Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

Amend-
ment of
section
275.

“*Explanation*.—In computing the period of limitation for the purposes of this section,—

(i) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129;

(ii) any period during which the immunity granted under section 245H remained in force; and

(iii) any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.”.

70. Section 276 of the Income-tax Act shall be omitted.

Omis-
sion of
section
276.

71. For sections 276B and 276C of the Income-tax Act, the following sections shall be substituted, namely:—

Substitu-
tion of
new sec-
tions for
sections
276B and
276C.

“276B. If a person, without reasonable cause or excuse, fails to deduct or after deducting, fails to pay the tax as required by or under the provisions of sub-section (9) of section 80E or Chapter XVII-B, he shall be punishable,—

Failure
to deduct
or pay
tax.

(i) in a case where the amount of tax which he has failed to deduct or pay exceeds one hundred thousand rupees, with rigorous imprisonment for a term which may extend to seven years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months;

(ii) in any other case, with rigorous imprisonment for a term which may extend to three years or with fine or with both.

276C. (1) If a person wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable,—

Wilful
attempt
to evade
tax, etc.

(i) in a case where the amount sought to be evaded exceeds one hundred thousand rupees, with rigorous imprisonment for a term which may extend to seven years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months;

(ii) in any other case, with rigorous imprisonment for a term which may extend to three years or with fine or with both.

(2) If a person wilfully attempts in any manner whatsoever to evade the payment of any tax, penalty or interest chargeable or imposable under this Act, he shall, without prejudice to any penalty

that may be imposable on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which may extend to three years and shall, in the discretion of the court, also be liable to fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than three months.

Explanation.—For the purposes of this section, a wilful attempt to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof shall include a case where any person—

(i) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement; or

(ii) makes or causes to be made any false entry or statement in such books of account or other documents; or

(iii) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

(iv) causes any other circumstance to exist which will have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.

276CC. If a person wilfully fails to furnish in due time the return of income which he is required to furnish under sub-section (1) of section 139 or by notice given under sub-section (2) of section 139 or section 148, he shall be punishable,—

(i) in a case where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which may extend to seven years and with fine:

Provided that, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months;

(ii) in any other case, with imprisonment for a term which may extend to three years or with fine or with both:

Provided that a person shall not be proceeded against under this section for failure to furnish in due time the return of income under sub-section (1) of section 139—

(i) for any assessment year commencing prior to the 1st day of April, 1971; or

(ii) for any assessment year commencing on or after the 1st day of April, 1971, if—

(a) the return is furnished by him before the expiry of the assessment year; or

(b) the tax payable by him on the total income determined on regular assessment, as reduced by the advance tax, if any, paid, and any tax deducted at source, does not exceed three thousand rupees.”

Failure
to furnish
returns
of in-
come.

72. For sections 277 and 278 of the Income-tax Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 277 and 278.

‘277. If a person makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,—

False statement in verification, etc.

(i) in a case where the amount of tax, which would have been evaded if the statement or account had been accepted as true, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which may extend to seven years and with fine:

Provided that, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months;

(ii) in any other case, with rigorous imprisonment for a term which may extend to three years or with fine or with both.

278. If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to any income chargeable to tax which is false and which he either knows to be false or does not believe to be true or to commit an offence under sub-section (1) of section 276C, he shall be punishable,—

Abetment of false return, etc.

(i) in a case where the amount of tax, penalty or interest which would have been evaded, if the declaration, account or statement had been accepted as true, or otherwise, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which may extend to seven years and with fine:

Provided that, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months;

(ii) in any other case, with rigorous imprisonment for a term which may extend to three years or with fine or with both.

278A. If any person convicted of an offence under section 276B or sub-section (1) of section 276C or section 276CC or section 277 or section 278 is again convicted for the same offence, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which may extend to seven years and with fine:

Punishment for second and subsequent offences.

Provided that, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months.

278B. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means a body corporate, and includes—

(i) a firm; and

(ii) an association of persons or a body of individuals whether incorporated or not; and

(b) “director”, in relation to—

(i) a firm, means a partner in the firm;

(ii) an association of persons or a body of individuals, means any member controlling the affairs thereof.

Offences
by Hindu
undivided
families.

278C. (1) Where an offence under this Act has been committed by a Hindu undivided family, the Karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the Karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any member of the Hindu undivided family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Presump-
tion as
to assets,
books of
account,
etc.,
in certain
cases.

278D. (1) Where during the course of any search made under section 132, any money, bullion, jewellery or other valuable article or thing (hereafter in this section referred to as the assets) or any books of account or other documents has or have been found in the possession or control of any person and such assets or books of account or other documents are tendered by the prosecution in evidence against such person or against such person and the person referred to in section 278 for an offence under this Act, the provisions of sub-section (4A) of section 132 shall, so far as may be, apply in relation to such assets or books of account or other documents.

(2) Where any assets or books of account or other documents taken into custody, from the possession or control of any person, by the officer or authority referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of section 132A are delivered to the requisitioning officer under sub-section (2) of that section and such assets, books of account or other documents are tendered by the prosecution in evidence against such person or against such person and the person referred to in section 278 for an offence under this Act, the provisions of sub-section (4A) of section 132 shall, so far as may be, apply in relation to such assets or books of account or other documents.'

73. In section 279 of the Income-tax Act,—

Amend-
ment of
section
279.

(i) for sub-sections (1) and (1A), the following sub-sections shall be substituted, namely:—

“(1) A person shall not be proceeded against for an offence under section 275A, section 276A, section 276B, section 276C, section 276CC, section 276D, section 277, section 278 or section 278A except at the instance of the Commissioner.

(1A) A person shall not be proceeded against for an offence under section 276C or section 277 in relation to the assessment for an assessment year in respect of which the penalty imposed on him under clause (iii) of sub-section (1) of section 271 has been reduced or waived by an order under section 273A.”;

(ii) in sub-section (3), for the words, brackets, figures and letter “under sub-section (4A) of section 271”, the words, figures and letter “under section 273A” shall be substituted.

74. After section 279 of the Income-tax Act, the following section shall be inserted, namely:—

Insertion
of new
section
279A.

5 of 1898.

“279A. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under section 276B or section 276C or section 276CC or section 277 or section 278 shall be deemed to be non-cognizable within the meaning of that Code.”.

Certain
offences
to be
non-
cogni-
zable.

75. For section 281 of the Income-tax Act, the following section shall be substituted, namely:—

Substitu-
tion of
new sec-
tion for
section
281.

“281. (1) Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice under rule 2 of the Second Schedule, any assessee creates a charge on, or parts with the possession (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) of, any of his assets in favour of any other person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding or otherwise:

Certain
transfers
to be
void.

Provided that such charge or transfer shall not be void if it is made—

(i) for adequate consideration and without notice of the pendency of such proceeding or, as the case may be, without notice of such tax or other sum payable by the assessee; or

(ii) with the previous permission of the Income-tax Officer.

(2) This section applies to cases where the amount of tax payable or likely to be payable exceeds five thousand rupees and the assets charged or transferred exceed ten thousand rupees in value.

Explanation.—In this section, “assets” means land, building, machinery, plant, shares, securities and fixed deposits in banks, to the extent to which any of the assets aforesaid does not form part of the stock in trade of the business of the assessee.’

Insertion of new section 281B.

Provisional attachment to protect revenue in certain cases.

76. After section 281A of the Income-tax Act, the following section shall be inserted, namely:—

“281B. (1) Where, during the pendency of any proceeding for the assessment of any income or for the assessment or re-assessment of any income which has escaped assessment, the Income-tax Officer is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the Commissioner, by order in writing, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so however, that the total period of extension shall not in any case exceed two years.”.

Amendment of section 285A.

77. In section 285A of the Income-tax Act, in sub-section (1), for the words “for the construction of a building for, or the supply of goods or services in connection therewith to, any other person, the value of which exceeds fifty thousand rupees”, the following shall be substituted, namely:—

“with another person for carrying out any work or for the supply of goods or services, the value of which work or supply or both exceeds fifty thousand rupees”.

Insertion of new section 285B.

Submission of statements by producers of cinematograph films.

78. After section 285A of the Income-tax Act, the following section shall be inserted, namely:—

“285B. Any person carrying on the production of a cinematograph film during the whole or any part of any financial year shall, in respect of the period during which such production is carried on by him in such financial year, prepare and deliver or cause to be delivered to the Income-tax Officer, within thirty days from the end of such financial year or within thirty days from the date of the completion of the production of the film, whichever is earlier, a statement in the prescribed form containing particulars of all payments of over five thousand rupees made by him to persons engaged by him in such production as employees or otherwise.”.

79. In section 287 of the Income-tax Act,—

(i) in sub-section (1), after the word "proceedings", the words "or prosecutions" shall be inserted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Deputy Commissioner (Appeals) has expired without an appeal having been presented or the appeal, if presented, has been disposed of."

80. After section 292 of the Income-tax Act, the following sections shall be inserted, namely:—

5 of 1898.
20 of 1958.

"292A. Nothing contained in section 562 of the Code of Criminal Procedure, 1898 or in the Probation of Offenders Act, 1958, shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.

Amend-
ment of
section
287.

Insertion
of new
sections
292A and
292B.

Section
562 of
the Code
of Crimi-
nal Proce-
dure,
1898 and
the Pro-
bation of
Offenders
Act, 1958,
not to
apply.

292B. No return of income, assessment, notice, summons or other proceeding furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding if such return of income, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act."

Return of
income,
etc., not
to be in-
valid on
certain
grounds.

81. In sub-section (2) of section 295 of the Income-tax Act,—

(i) after clause (dd), the following clause shall be inserted, namely:—

"(dda) the matters specified in sub-sections (2) and (3) of section 44B;"

(ii) after clause (e), the following clauses shall be inserted, namely:—

"(ee) the conditions or limitations subject to which any payment of rent made by an assessee shall be deducted under section 80GG;

(eea) the form of the report of audit and the particulars which such report shall contain under sub-section (1B) of section 139;

(eeb) the cases, the nature and value of assets, the limits and heads of expenditure and the outgoings, which are required to be prescribed under sub-section (6) of section 139;

Amend-
ment of
section
295.

(*ee*) the time within which any person may apply for the allotment of a permanent account number, the form and the manner in which such application may be made and the particulars which such application shall contain and the transactions with respect to which permanent account numbers shall be quoted on documents relating to such transactions under section 139A;";

(*iii*) after clause (*f*), the following clause shall be inserted, namely:—

"(*ff*) the conditions subject to which the Commissioner may approve a contract for the payment of annuity under section 180A;";

(*iv*) after clause (*mm*), the following clause shall be inserted, namely:—

"(*mma*) the form in which the statement under section 285B shall be delivered to the Income-tax Officer;".

Amend-
ment of
section
296.

82. In section 296 of the Income-tax Act,—

(*i*) for the words "or in two successive sessions", the words "or in two or more successive sessions" shall be substituted;

(*ii*) for the words "in which it is so laid or the session immediately following", the words "immediately following the session or the successive sessions aforesaid" shall be substituted.

Amend-
ment of
Second
Schedule.

83. In the Second Schedule to the Income-tax Act,—

(*i*) rule 19A shall be re-numbered as sub-rule (2) thereof, and before that sub-rule as so re-numbered, the following sub-rule shall be inserted, namely:—

"(1) A Tax Recovery Officer, being a Gazetted Officer of the Central Government who is authorised to exercise the powers of a Tax Recovery Officer under this Act, may entrust any of his functions as Tax Recovery Officer to any other officer lower than him in rank (not being lower in rank than an Inspector of Income-tax) and such officer shall, in relation to the functions so entrusted to him, be deemed to be a Tax Recovery Officer:

Provided that where the Tax Recovery Officer is an Income-tax Officer any entrustment under this sub-rule shall be made only with the approval of the Deputy Commissioner (Assessment).";

(*ii*) in rule 53, in clause (*c*), the word "and" occurring at the end shall be omitted, and after that clause, the following clause shall be inserted, namely:—

"(*cc*) the reserve price, if any, below which the property may not be sold; and";

(*iii*) to rule 56, the following proviso shall be added, namely:—

"Provided that no sale under this rule shall be made if the amount bid by the highest bidder is less than the reserve price, if any, specified under clause (*cc*) of rule 53.";

(*iv*) rule 59 shall be re-numbered as sub-rule (2) thereof, and before that sub-rule as so re-numbered, the following sub-rule shall be inserted, namely:—

"(1) Where the sale of a property, for which a reserve price

has been specified under clause (cc) of rule 53, has been postponed for want of a bid of an amount not less than such reserve price, it shall be lawful for an Income-tax Officer, if so authorised by the Commissioner in this behalf, to bid for the property on behalf of the Central Government at any subsequent sale.”;

(v) in Part III, after rule 68, the following rule shall be inserted, namely:—

Acceptance of property in satisfaction of amount due from the defaulter.

“68A. (1) Without prejudice to the provisions contained in this Part, an Income-tax Officer, duly authorised by the Commissioner in this behalf, may accept in satisfaction of the whole or any part of the amount due from the defaulter the property, the sale of which has been postponed for the reason mentioned in sub-rule (1) of rule 59, at such price as may be agreed upon between the Income-tax Officer and the defaulter.

(2) Where any property is accepted under sub-rule (1) the defaulter shall deliver possession of such property to the Income-tax Officer and on the date the possession of the property is delivered to the Income-tax Officer, the property shall vest in the Central Government and the Central Government shall, where necessary, intimate the concerned Registering Officer appointed under the Registration Act, 1908, accordingly.

16 of 1908.

(3) Where the price of the property agreed upon under sub-rule (1) exceeds the amount due from the defaulter, such excess shall be paid by the Income-tax Officer to the defaulter within a period of three months from the date of delivery of possession of the property and where the Income-tax Officer fails to pay such excess within the period aforesaid, the Central Government shall, for the period commencing on the expiry of such period and ending with the date of payment of the amount remaining unpaid, pay simple interest at twelve per cent. per annum to the defaulter on such amount.”;

(vi) in rule 73,—

(i) after sub-rule (3), the following sub-rule shall be inserted, namely:—

“(3A) A warrant of arrest issued by a Tax Recovery Officer under sub-rule (2) or sub-rule (3) may also be executed by any other Tax Recovery Officer within whose jurisdiction the defaulter may for the time being be found.”;

(ii) in sub-rule (4),—

(a) for the words, brackets and figures “sub-rule (2) or sub-rule (3)”, the words “this rule” shall be substituted, and after the words “Tax Recovery Officer”, the words “issuing the warrant” shall be inserted;

(b) after the proviso, the following *Explanation* shall be inserted, namely:—

“*Explanation.*—For the purposes of this rule, where the defaulter is a Hindu undivided family, the Karta thereof shall be deemed to be the defaulter.”.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

Substitution of certain expressions by certain other expressions.

84. Throughout the Wealth-tax Act, 1957 (hereafter in this Chapter 27 of 1957. referred to as the Wealth-tax Act),—

(i) for the expression "Appellate Assistant Commissioner", wherever it occurs, the expression "Deputy Commissioner (Appeals)" shall be substituted;

(ii) for the expression "Inspecting Assistant Commissioner of Wealth-tax" or the expression "Inspecting Assistant Commissioner", wherever it occurs, the expression "Deputy Commissioner (Assessment)" shall be substituted,

and such other consequential amendments, as the rules of grammar may require, shall also be made.

Amendment of section 2.

85. In section 2 of the Wealth-tax Act,—

(i) clauses (a) and (l) shall be omitted;

(ii) clause (hb) shall be re-lettered as clause (hd) and before that clause as so re-lettered, the following clauses shall be inserted, namely:—

'(hb) "Deputy Commissioner (Appeals)" means a person empowered to exercise the functions of a Deputy Commissioner of Wealth-tax (Appeals) under section 9;

(hc) "Deputy Commissioner (Assessment)" means a person empowered to exercise the functions of a Deputy Commissioner of Wealth-tax (Assessment) under section 11;';

(iii) for clause (k), the following clause shall be substituted, namely:—

'(k) "Income-tax Officer" means a person appointed to be a Senior Income-tax Officer or an Income-tax Officer under section 117 of the Income-tax Act;'

Amendment of section 4.

86. In section 4 of the Wealth-tax Act,—

(i) in clause (a) of sub-section (1),—

(a) in sub-clause (iii), after the words "by the individual", the words "directly or indirectly," shall be inserted;

(b) in sub-clause (iv), the word "or" shall be inserted at the end and after that sub-clause, the following sub-clause shall be inserted, namely:—

"(v) by the son's wife, or the son's minor child, of such individual, to whom such assets have been transferred by the individual, directly or indirectly, otherwise than for adequate consideration,";

(ii) in sub-section (1A),—

(a) in clause (b), the words "in so far as it is attributable to the interest of the individual in the property of the family," shall be omitted;

(b) for clause (c), the following clause shall be substituted, namely:—

“(c) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, the converted property or any part thereof which is received by the spouse or minor child of the individual on such partition shall be deemed to be assets transferred indirectly by the individual to the spouse or minor child and the provisions of sub-section (1) shall, so far as may be, apply accordingly:”;

(iii) after sub-section (5), the following sub-section shall be inserted, namely:—

“(5A) Where a gift of money from one person to another is made by means of entries in the books of account maintained by the person making the gift or by an individual or a Hindu undivided family or a firm or an association or body of individuals with whom or which he has business or other relationship, the value of such gift shall be liable to be included in computing the net wealth of the person making the gift unless he proves to the satisfaction of the Wealth-tax Officer that the money has actually been delivered to the other person at the time the entries were made.”;

(iv) in the *Explanation*,—

(a) after clause (a), the following clause shall be inserted, namely:—

“(aa) the expression “minor child” includes a step-child and an adopted child;”;

(b) in clause (b), the word “and” shall be inserted at the end;

(c) in clause (c), the word “and” occurring at the end shall be omitted;

(d) clause (d) shall be omitted.

87. In sub-section (1) of section 5 of the Wealth-tax Act, in clause (v), for the proviso, the following proviso shall be substituted, namely:—

Amend-
ment of
section 5.

“Provided that they are held by him in his own right as the inventor or author of such patent or copyright, as the case may be, and have not been assigned to, or acquired by, him under a contract or by way of inheritance or otherwise;”.

88. In section 8 of the Wealth-tax Act, in the proviso, for the portion beginning with the words “and perform such functions” and ending with the words “work to be performed”, the following shall be substituted, namely:—

Amend-
ment of
section 8.

“and shall perform their functions in respect of such individual, Hindu undivided family or company, as the case may be, in accordance with such general or special orders in writing as the Commissioner or the Deputy Commissioner (Assessment) authorised by the Commissioner in this behalf may make for the purpose of facilitating the performance of such functions”.

Insertion of
new sec-
tion 8AA.

Concur-
rent
jurisdic-
tion of
Deputy
Commis-
sioner
(Assess-
ment) and
Wealth-
tax Offi-
cer.

89. After section 8A of the Wealth-tax Act, the following section shall be inserted, namely:—

“8AA. (1) The Commissioner may, by general or special order in writing, direct that all or any of the powers or functions conferred on or assigned to the Wealth-tax Officer or Wealth-tax Officers by or under this Act in respect of any area, or cases or classes of cases, or persons or classes of persons shall be exercised or performed concurrently by the Deputy Commissioner (Assessment).

(2) Where under sub-section (1), a Deputy Commissioner (Assessment) exercises concurrent jurisdiction with one or more Wealth-tax Officers in respect of any area, cases or classes of cases, or persons or classes of persons, the Wealth-tax Officer or Wealth-tax Officers shall exercise the powers and perform the functions under this Act in relation thereto as the Deputy Commissioner (Assessment) may direct.

(3) Without prejudice to the generality of the provisions contained in sub-section (2) of section 13, every Wealth-tax Officer shall also observe and follow such instructions as may be issued to him for his guidance by the Deputy Commissioner (Assessment) within whose jurisdiction he performs his functions in relation to any particular proceeding or the initiation of any proceeding under this Act:

Provided that no instructions which are prejudicial to the assessee shall be issued before an opportunity is given by the Deputy Commissioner (Assessment) to the assessee to be heard.

Explanation.—For the purposes of this sub-section, no instruction as to the lines on which an investigation connected with the assessment should be made shall be deemed to be an instruction prejudicial to the assessee.

(4) Where an order is made under sub-section (1) and the Deputy Commissioner (Assessment) exercises the powers or performs the functions of a Wealth-tax Officer in respect of any case or person or proceeding, references in this Act or in any rule made thereunder to the Wealth-tax Officer shall be construed as including references to the Deputy Commissioner (Assessment) and, accordingly,—

(i) any provision of this Act requiring approval or sanction of the Deputy Commissioner (Assessment) shall not apply;

(ii) any appeal which would otherwise have lain to the Deputy Commissioner (Appeals) shall lie to the Commissioner;

(iii) any appeal which would have lain from an order of the Deputy Commissioner (Appeals) to the Appellate Tribunal shall lie from the order of the Commissioner.”.

Amend-
ment of
section 8B.

90. In section 8B of the Wealth-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer

any case from one or more of the following Officers subordinate to him, namely:—

(a) any Wealth-tax Officer or Wealth-tax Officers;

(b) any Wealth-tax Officer or Wealth-tax Officers having concurrent jurisdiction with the Deputy Commissioner (Assessment),

to any other Wealth-tax Officer or Wealth-tax Officers [whether with or without concurrent jurisdiction with the Deputy Commissioner (Assessment)] and the Board may similarly transfer any case from any one or more of the Officers mentioned in clauses (a) and (b) to any one or more of the other Officers aforesaid:

Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where a transfer is from any Wealth-tax Officer or Wealth-tax Officers [whether with or without concurrent jurisdiction with the Deputy Commissioner (Assessment)] to any other Wealth-tax Officer or Wealth-tax Officers [whether with or without concurrent jurisdiction with the Deputy Commissioner (Assessment)] and the offices of all such Officers are situated in the same city, locality or place:

Provided further that—

(a) where any case has been transferred from any Wealth-tax Officer or Wealth-tax Officers to two or more Wealth-tax Officers, the Wealth-tax Officers to whom the case is so transferred shall have concurrent jurisdiction over such case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner or the Deputy Commissioner (Assessment) authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions;

(b) where any case has been transferred from any Wealth-tax Officer or Wealth-tax Officers [whether with or without concurrent jurisdiction with the Deputy Commissioner (Assessment)] to two or more Wealth-tax Officers with concurrent jurisdiction with the Deputy Commissioner (Assessment), the Officers [including the Deputy Commissioner (Assessment)] to whom the case is so transferred shall have concurrent jurisdiction over such case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner may make for the purpose of facilitating the performance of such functions and the Wealth-tax Officers shall perform their functions also in accordance with such orders or directions as the Deputy Commissioner (Assessment) may make under section 8 or, as the case may be, under sub-section (2) of section 8AA.”

91. In section 9 of the Wealth-tax Act,—

(i) for the words “an Appellate Assistant Commissioner of Wealth-tax”, the words and brackets “a Deputy Commissioner of Wealth-tax (Appeals)” shall be substituted;

(ii) for the words “Appellate Assistant Commissioners”, at both the places where they occur, the words and brackets “Deputy Commissioners of Wealth-tax (Appeals)” shall be substituted.

Amendment
of section
9.

**Amend-
ment of
section 11.**

92. In section 11 of the Wealth-tax Act,—

(i) for the words “an Inspecting Assistant Commissioner of Wealth-tax”, the words and brackets “a Deputy Commissioner of Wealth-tax (Assessment)” shall be substituted;

(ii) for the words “Inspecting Assistant Commissioners of Wealth-tax” and the words “Inspecting Assistant Commissioners”, the words and brackets “Deputy Commissioners of Wealth-tax (Assessment)” shall be substituted.

**Amend-
ment of
section
11B.**

93. In section 11B of the Wealth-tax Act, after clause (b), the following clause shall be inserted, namely:—

“(c) in a case where two or more Wealth-tax Officers have concurrent jurisdiction over such assessee in respect of such function, be the Wealth-tax Officers empowered to perform such function by the Board or, as the case may be, the Wealth-tax Officers to whom such function has been assigned by an order of the Commissioner or by an order or a direction of the Deputy Commissioner (Assessment) under section 8 or, as the case may be, under sub-section (2) of section 8AA.”.

**Amend-
ment of
section 12.**

94. In sub-section (1) of section 12 of the Wealth-tax Act, for the words “Inspecting Assistant Commissioners”, the words and brackets “Deputy Commissioners (Assessment)” shall be substituted.

**Amend-
ment of
section 13.**

95. In sub-section (1) of section 13 of the Wealth-tax Act, in the proviso, for the words “Appellate Assistant Commissioner of Wealth-tax”, the words and brackets “Deputy Commissioner (Appeals)” shall be substituted.

**Amend-
ment of
section
15A.**

96. In section 15A of the Wealth-tax Act, for clause (c), the following clause shall be substituted, namely:—

“(c) in the case of a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign and verify the return or where there is no managing director, by any other director thereof, or any other person, for the time being mainly in charge of the affairs of the company.”.

**Amend-
ment of
section
15B.**

97. In section 15B of the Wealth-tax Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where the tax payable on the basis of any return furnished under section 14 or section 15 exceeds five hundred rupees, the assessee shall be liable to pay such tax on or before furnishing the return and the return shall be accompanied by proof of payment of such tax.”;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) If any assessee fails to pay the tax or any part thereof in accordance with the provisions of sub-section (1), the Wealth-tax Officer may direct that a sum equal to two per cent. of such tax or part thereof, as the case may be, shall be recovered from him by way of penalty for every month during which the default continues:

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard.”.

98. After section 17 of the Wealth-tax Act, the following section shall be inserted, namely:—

Insertion
of new
section
17A.
Time-
limit for
comple-
tion of
assessment
and re-
assess-
ment.

"17A. (1) No order of assessment shall be made under section 16 at any time after the expiration of a period of—

(a) four years from the 1st day of April, 1973, where the assessment year is an assessment year commencing on or before that date;

(b) four years from the end of the assessment year in which the net wealth was first assessable, where the assessment year is an assessment year commencing on or after the 1st day of April, 1974.

(2) No order of assessment or re-assessment shall be made under section 17,—

(a) where the assessment or re-assessment is to be made in relation to any proceeding under this Act which is pending on the 1st day of April, 1973, at any time after the expiration of a period of four years from the 1st day of April, 1973;

(b) where the assessment or re-assessment is to be made in a case falling within clause (a) of sub-section (1) of section 17 for which a notice has been served under that sub-section on or after the 1st day of April, 1973, at any time after the expiration of a period of four years from the end of the assessment year in which such notice was served;

(c) where the assessment or re-assessment is to be made in a case falling within clause (b) of sub-section (1) of section 17 for which a notice has been served under that sub-section on or after the 1st day of April, 1973, after the expiration of a period of—

(i) four years from the end of the assessment year in which the net wealth was first assessable, or

(ii) one year from the date of service of such notice, whichever period expires later.

Explanation—In computing the period of limitation for the purposes of this section—

(i) the time taken in re-opening the whole or any part of the proceeding;

(ii) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39;

(iii) the time taken in the prosecution of any person for any offence under this Act committed by him in the course of any assessment proceeding under this Act (such time being computed from the date of the filing of the complaint to the date of its final disposal); and

(iv) the period during which the assessment proceeding is stayed by an order or injunction of any court, shall be excluded."

Amend-
ment of
section 18.

99. In section 18 of the Wealth-tax Act,—

(i) in sub-section (1), for clauses (i), (ii), (iii) and the *Explanations*, the following clauses and *Explanations* shall be substituted, namely:—

‘(i) in the cases referred to in clause (a), in addition to the amount of wealth-tax, if any, payable by him, a sum equal to two per cent. of the tax for every month during which the default continued;

(ii) in the cases referred to in clause (b), in addition to the amount of wealth-tax payable by him, a sum which shall not be less than ten per cent., but which shall not exceed fifty per cent. of the amount of the wealth-tax, if any, which would have been avoided if the net wealth returned by such person had been accepted as the correct net wealth;

(iii) in the cases referred to in clause (c), in addition to any wealth-tax payable by him, a sum which shall not be less than, but which shall not exceed five times, the amount of tax sought to be evaded by reason of the concealment of particulars of any assets or the furnishing of inaccurate particulars in respect of any assets or debts.

Explanation 1.—For the purposes of clause (iii) of this sub-section, the expression “the amount of tax sought to be evaded”,—

(a) in any case where—

(i) the amount representing the value of any asset in respect of which particulars have been concealed; or

(ii) the amount of difference between the value of any asset or debt returned and the value thereof on assessment, as a result of the furnishing of inaccurate particulars in respect thereof; or

(iii) the aggregate of such amounts,

exceeds the net wealth assessed, means the tax that would have been assessable on the amount representing the value of the asset in respect of which the particulars have been concealed or on the amount of difference or, as the case may be, on the aggregate of such amounts, had such amount or the amount of difference or the aggregate, as the case may be, been the net wealth;

(b) in any other case, means the difference between the tax on the net wealth assessed and the tax that would have been assessable had the assessed net wealth been reduced by—

(i) the amount representing the value of the asset in respect of which particulars have been concealed; or

(ii) the amount of difference between the value of any asset or debt returned and the value thereof on assessment, as a result of the furnishing of inaccurate particulars in respect thereof; or

(iii) the aggregate of such amounts,

as the case may be.

Explanation 2.—Where in respect of any facts material to the computation of the net wealth of any person under this Act,—

(A) such person fails to offer an explanation, or

(B) such person offers an explanation which he is not able to substantiate or which is found by the Wealth-tax Officer or the Deputy Commissioner (Appeals) to be false, then, the amount added or disallowed in computing the net wealth of such person as a result thereof shall, for the purposes of clause (c) of this sub-section, be deemed to represent the value of the assets in respect of which particulars have been concealed.

Explanation 3.—Where any person who has not previously been assessed under this Act fails, without reasonable cause, to furnish within the period specified in clause (a) or, as the case may be, clause (b) of sub-section (1) of section 17A a return of his net wealth which he is required to furnish under section 14 in respect of any assessment year and, until the expiry of either of the periods applicable to him, no notice had been issued to him under sub-section (2) of section 14 or sub-section (1) of section 17 and the Wealth-tax Officer or the Deputy Commissioner (Appeals) is satisfied that in respect of such assessment year such person has assessable net wealth, then, such person shall, for the purposes of clause (c) of this sub-section, be deemed to have concealed the particulars of his assets or furnished inaccurate particulars of any assets or debts in respect of such assessment year, notwithstanding that such person furnishes a return of his net wealth at any time after the expiry of either of the periods aforesaid applicable to him in pursuance of a notice under section 17.

Explanation 4.—Where the value of any asset returned by any person is less than seventy per cent. of the value of such asset as determined in an assessment under section 16 or section 17, such person shall be deemed to have furnished inaccurate particulars of such asset within the meaning of clause (c) of this sub-section, unless he proves that the value of the asset as returned by him is the correct value.;

(ii) sub-section (1A) shall be omitted;

(iii) sub-sections (2A) and (2B) shall be omitted;

(iv) for sub-section (3), the following sub-sections shall be substituted, namely:—

“(3) Notwithstanding anything contained in clause (iii) of sub-section (1), if, in a case falling under clause (c) of that sub-section, the amount (as determined by the Wealth-tax Officer on assessment) in respect of which penalty is imposable under clause (c) aforesaid exceeds a sum of twenty-five thousand rupees, the Wealth-tax Officer shall not issue any direction under sub-section (1) for payment by way of penalty without the previous approval of the Deputy Commissioner (Assessment).

(3A) Notwithstanding anything contained in this section the penalty imposed under clause (iii) of sub-section (1) read with *Explanation 3* to that sub-section and the penalty impose

under clause (i) of that sub-section shall not exceed, in the aggregate, five times the amount of the tax sought to be evaded.”.

(v) for the *Explanation* below sub-section (5), the following *Explanation* shall be substituted, namely:—

“*Explanation.*—In computing the period of limitation for the purposes of this section,—

(i) any period during which the immunity granted under section 22H remained in force;

(ii) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39; and

(iii) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.”.

Insertion
of new
sections
18A and
18B.
Penalty
for
failure to
answer
questions,
sign
state-
ments,
allow
inspec-
tions, etc.

100. In Chapter IV of the Wealth-tax Act, after section 18, the following sections shall be inserted, namely:—

“18A. (1) If a person,—

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question demanded of him by a Wealth-tax Officer or a Deputy Commissioner (Appeals) or a Deputy Commissioner (Assessment) or a Commissioner, in the exercise of his powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceeding under this Act which a Wealth-tax Officer or a Deputy Commissioner (Appeals) or a Deputy Commissioner (Assessment) or a Commissioner may legally require him to sign,

he shall pay, by way of penalty, a sum which may extend to one thousand rupees.

(2) If a person, without reasonable cause, fails to furnish in due time such statement or information which such person is bound to furnish to the Wealth-tax Officer under section 38, he shall pay, by way of penalty, a sum which may extend to ten rupees for every day during which the failure continues.

(3) No order shall be made under this section except by a Deputy Commissioner (Appeals) or a Deputy Commissioner (Assessment) or a Commissioner, and where a contravention of the provisions of this section occurs in the course of any proceeding before a Wealth-tax Officer, the Wealth-tax Officer shall refer the case to the Deputy Commissioner (Assessment) for passing such orders as he deems fit.

(4) No order under this section shall be passed by any Officer referred to in sub-section (3), unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such Officer.

18B. (1) Notwithstanding anything contained in this Act, the Commissioner may, in his discretion, whether on his own motion or otherwise,—

Power to reduce or waive penalty in certain cases.

(i) reduce or waive the amount of penalty imposed or imposable on a person under clause (i) of sub-section (1) of section 18 for failure without reasonable cause to furnish the return of net wealth which such person was required to furnish under sub-section (1) of section 14; or

(ii) reduce or waive the amount of penalty imposed or imposable on a person under clause (iii) of sub-section (1) of section 18,

if he is satisfied that such person,—

(a) in the case referred to in clause (i), has prior to the issue of a notice to him under sub-section (2) of section 14, voluntarily and in good faith, made full and true disclosure of his net wealth, and

(b) in the case referred to in clause (ii), has, prior to the detection by the Wealth-tax Officer, of the concealment of particulars of assets or of the inaccuracy of particulars furnished in respect of any asset or debt in respect of which the penalty is imposable, voluntarily and in good faith made full and true disclosure of such particulars,

and also has co-operated in any inquiry relating to the assessment of his net wealth and has either paid or made satisfactory arrangements for the payment of any tax or interest payable in consequence of an order passed under this Act in respect of the relevant assessment year.

Explanation.—For the purposes of this sub-section, a person shall be deemed to have made full and true disclosure of the particulars of his assets or debts in any case where the excess of net wealth assessed over the net wealth returned is of such a nature as not to attract the provisions of clause (c) of sub-section (1) of section 18.

(2) Notwithstanding anything contained in sub-section (1), if in a case falling under clause (c) of sub-section (1) of section 18, the net wealth in respect of which the penalty is imposed or imposable for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the net wealth for any one of the relevant assessment years, exceeds five hundred thousand rupees, no order reducing or waiving the penalty under sub-section (1) shall be made by the Commissioner, except with the previous approval of the Board.

(3) Where an order has been made under sub-section (1) in favour of any person, whether such order relates to one or more assessment years, he shall not be entitled to any relief under this section in relation to any other assessment year at any time after the making of such order.

(4) Without prejudice to the powers conferred on him by any other provision of this Act, the Commissioner may, on an application made in this behalf by an assessee, and after recording his reasons for so doing, reduce or waive the amount of any penalty payable

by the assessee under this Act or stay or compound any proceeding for the recovery of any such amount, if he is satisfied that—

(i) to do otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case, and

(ii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

(5) Every order made under this section shall be final and shall not be called into question by any court or any other authority.”.

Insertion
of new
Chapter
VA.

101. After Chapter V of the Wealth-tax Act, the following Chapter shall be inserted, namely:—

‘CHAPTER VA

SETTLEMENT OF CASES

Defini-
tions.

22A. In this Chapter, unless the context otherwise requires,—

(a) “case” means any proceeding under this Act for or in connection with the assessment or re-assessment of any person in respect of any year or years which may be pending before a Wealth-tax authority on the date on which an application referred to in section 22C is made;

(b) “Wealth-tax authority” means a Director of Inspection, a Commissioner, a Deputy Commissioner (Appeals), a Deputy Commissioner (Assessment) or a Wealth-tax Officer.

Wealth-
tax Set-
tlement
Com-
mittee.

22B. (1) The Board may constitute from amongst its members a Committee to be known as the Wealth-tax Settlement Committee (hereafter in this Chapter referred to as the Settlement Committee) for the settlement of cases under this Chapter.

(2) The Settlement Committee constituted under sub-section (1) shall consist of not less than three members and shall function for such period as the Board may specify in this behalf.

Applica-
tion for
settle-
ment of
cases.

22C. (1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner and containing such particulars as may be prescribed to the Settlement Committee to have the case settled and any such application shall be disposed of in the manner hereinafter provided.

(2) Every application made under sub-section (1) shall be accompanied with such fees as may be prescribed.

(3) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.

Procedure
on
receipt of
an appli-
cation
under
section
22C.

22D. (1) On receipt of an application under section 22C, the Settlement Committee may call for a report from the Wealth-tax authority concerned and on the basis of the materials contained in such report and having regard to the interests of the revenue and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Committee may, by order, allow all the matters covered by the application or any part thereof to be proceeded with or reject the application:

Provided that no matter covered by the application shall be proceeded with if the Settlement Committee is of the opinion that concealment of particulars of the net wealth on the part of the

applicant or perpetration of fraud by him on any Wealth-tax authority for evading any tax or other sum payable under this Act has been established by any Wealth-tax authority:

Provided further that no order under this sub-section rejecting an application or disallowing any matter covered by it to be proceeded with shall be passed unless an opportunity has been given to the applicant of being heard.

(2) A copy of every order passed under sub-section (1) shall be sent to the applicant and to the Wealth-tax authority concerned.

(3) Where all the matters or any part thereof covered by the application is allowed to be proceeded with under sub-section (1), the Settlement Committee may call for the relevant records from the Wealth-tax authority concerned and after examination of such records if the Settlement Committee is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Wealth-tax authority concerned to make such further enquiry or investigation and furnish a report thereof.

(4) After examination of the records and the report, if any, of the Wealth-tax authority concerned, received under sub-section (3), and after giving an opportunity to the applicant and to the Wealth-tax authority concerned to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Committee may pass such order on the application, in accordance with the provisions of this Act, as it thinks fit.

(5) The materials brought on record before the Settlement Committee shall be considered by all the members thereof before passing any order under sub-section (4) and, in the case of a difference of opinion among the members, the opinion of the majority shall prevail and such order shall be expressed in terms of the views of the majority.

(6) Every order passed under sub-section (4) shall provide for the terms of settlement including any demand by way of tax, penalty or interest, the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Committee that it has been obtained by fraud or misrepresentation of facts.

22E. If the Settlement Committee is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to re-open any proceeding connected with the case, but which has been completed under this Act by any Wealth-tax authority before the application under section 22C was made, it may, with the concurrence of the applicant, re-open such proceeding and pass such orders thereon as it thinks fit as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also:

Power of Settlement Committee to re-open completed proceedings.

Provided that no proceeding shall be re-opened by the Settlement Committee under this section after the expiry of a period of

Powers
and pro-
cedure of
Settle-
ment
Commit-
tee.

eight years from the end of the assessment year to which such proceeding relates.

22F. (1) In addition to the powers conferred on the Settlement Committee under this Chapter, it shall have all the powers which are vested in a Wealth-tax authority under this Act.

(2) Where the matters covered by an application made under section 22C or any part thereof have been allowed to be proceeded with under section 22D, the Settlement Committee shall, until an order is passed by it under sub-section (4) of section 22D, have exclusive jurisdiction to exercise the powers and perform the functions of a Wealth-tax authority under this Act in relation to such matters.

(3) Notwithstanding anything contained in sub-section (2) and in the absence of any express direction to the contrary by the Settlement Committee, nothing contained in this section shall affect the operation of any other provision of this Act requiring the applicant to pay tax on the basis of self-assessment in relation to the matter or matters allowed to be proceeded with by the Settlement Committee.

(4) For the removal of doubt, it is hereby declared that in the absence of any express direction to the contrary by the Settlement Committee, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matter other than that allowed to be proceeded with by the Settlement Committee.

(5) The Settlement Committee shall, subject to the provisions of this Chapter, have power to regulate its own procedure (including the fixation of places and times of its meetings) and may act notwithstanding that all the members of the Settlement Committee are not present at any of its meetings.

Inspection,
etc., of
reports.

22G. No person shall be entitled to inspect, or obtain copies of, any reports made by any Wealth-tax authority to the Settlement Committee; but the Settlement Committee may, in its discretion, furnish copies thereof to any such person on an application made to it in this behalf and on payment of the prescribed fee:

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on the record against him in any such report, the Settlement Committee shall, on an application made in this behalf and on payment of the prescribed fee by such person, furnish him with a certified copy of any such report or part thereof relevant for the purpose.

Powers of
Settle-
ment Com-
mittee to
grant im-
munity
from pro-
secution.

22H. (1) The Settlement Committee may, if it is satisfied that any person who made the application for settlement under section 22C has co-operated with the Settlement Committee in the proceedings before it and has made a full and true disclosure of his net wealth and the manner in which such wealth has been acquired, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force and also from the imposition of any

penalty under this Act, with respect to the case covered by the settlement.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Committee, if it is satisfied that such person has not complied with the conditions subject to which the immunity was granted or that such person had, in the course of the settlement proceedings, concealed any particulars material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

22I. Every order of settlement passed under sub-section (4) of section 22D shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be re-opened in any proceeding under this Act or under any other law for the time being in force.

Order of settlement to be conclusive.

22J. Any sum specified in an order of settlement passed under sub-section (4) of section 22D may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered in accordance with the provisions of section 32 by the Wealth-tax Officer having jurisdiction over the person who made the application for settlement under section 22C.

Recovery of sums due under order of settlement.

22K. Where—

(i) an order of settlement passed under sub-section (4) of section 22D provides for the imposition of a penalty on the person who made the application under section 22C for settlement, on the ground of concealment of particulars of his net wealth; or

Bar on subsequent application for settlement in certain cases.

(ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter VIII in relation to that case,

then, he shall not be entitled to apply for settlement under section 22C in relation to any other matter.'

102. In section 23 of the Wealth-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 23.

"(2A) Where a return has been filed by an assessee, no appeal under this section shall be admitted unless at the time of filing of the appeal he has paid the tax due on the net wealth returned by him:

Provided that, on an application made by the appellant in this behalf, the Deputy Commissioner (Appeals) may, for any good and

sufficient reason to be recorded in writing, exempt him from the operation of the provision of this sub-section.”.

Amend-
ment of
section 24.

103. In section 24 of the Wealth-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) An assessee objecting to an order passed by the Deputy Commissioner (Appeals) under section 18 or section 18A or section 23 or sub-section (2) of section 37, or to an order passed by the Deputy Commissioner (Assessment) under section 18A, may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.”.

Amend-
ment of
section 26.

104. In sub-section (1) of section 26 of the Wealth-tax Act, after the word and figures “section 18”, the words, figures and letter “or section 18A” shall be inserted.

Amend-
ment of
section
34A.

105. In section 34A of the Wealth-tax Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) Where the whole or any part of the refund referred to in sub-section (3) is due to the assessee as a result of any amount having been paid by him in pursuance of any order of assessment or penalty and such amount or any part thereof having been found in appeal or other proceeding under this Act to be in excess of the amount which such assessee is liable to pay as tax or penalty or both, as the case may be, under this Act, the Central Government shall pay to such assessee simple interest at the rate specified in sub-section (3) on the amount so found to be in excess—

(i) from the date such amount was paid; or

(ii) where such amount was paid in instalments, from the date or dates on which any payment made came to be in excess of the amount due from such assessee as a result of the appeal or other proceeding,

to the date on which the refund is granted:

Provided that no interest under this sub-section shall be payable for a period of one month from the date of the passing of the order in appeal or other proceeding:

Provided further that where any interest is payable to an assessee under this sub-section, no interest under sub-section (3) shall be payable to him in respect of the amount so found to be in excess.”.

Substi-
tution of
new sec-
tions
for section
34B.

106. For section 34B of the Wealth-tax Act, the following sections shall be substituted, namely:—

Transfers
to defraud
revenue
to be void.

‘34B. (1) Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice under rule 2 of the Second Schedule to the Income-tax Act as made applicable to this Act by section 32, any assessee creates a charge on, or parts with (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) the possession of, any of his assets in favour of any other person, such charge or transfer

shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding or otherwise:

Provided that such charge or transfer shall not be void, if it is made—

(i) for adequate consideration and without notice of the pendency of such proceeding or, as the case may be, without notice of such tax or other sum payable by the assessee; or

(ii) with the previous permission of the Wealth-tax Officer.

(2) This section applies to cases where the amount of tax payable or likely to be payable exceeds five thousand rupees and the assets charged or transferred exceed ten thousand rupees in value.

Explanation.—In this section, “assets” means land, building, machinery, plant, shares, securities and fixed deposits in banks to the extent to which any of the assets aforesaid does not form part of the stock in trade of the business of the assessee.

34C. (1) Where, during the pendency of any proceeding for the assessment of net wealth or for the assessment or re-assessment of net wealth which has escaped assessment, the Wealth-tax Officer is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the Commissioner, by order in writing, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule to the Income-tax Act as made applicable to this Act by section 32.

Provisional attachment to protect revenue in certain cases.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so however, that the total period of extension shall not in any case exceed two years.

107. In sub-section (1) of section 35 of the Wealth-tax Act, clause (c) shall be omitted.

Amendment of section 35.

108. After section 35 of the Wealth-tax Act, the following sections shall be inserted, namely:—

Insertion of new sections 35A to 35N.

“35A. (1) If a person wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable,—

Wilful attempt to evade tax, etc.

(i) in a case where the amount sought to be evaded exceeds one hundred thousand rupees, with rigorous imprisonment for a term which may extend to seven years and with fine:

Provided that, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months;

(ii) in any other case, with rigorous imprisonment for a term which may extend to three years or with fine or with both.

(2) If a person wilfully attempts in any manner whatsoever to evade the payment of any tax, penalty or interest chargeable or imposable under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which may extend to three years and shall, in the discretion of the court, also be liable to fine:

Provided that, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than three months.

Explanation.—For the purposes of this section, a wilful attempt to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof shall include a case where any person—

(a) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement, or

(b) makes, or causes to be made, any false entry or statement in such books of account or other documents, or

(c) wilfully omits, or causes to be omitted, any relevant entry or statement in such books of account or other documents, or

(d) causes any other circumstance to exist which will have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.

Failure to
furnish
returns
of net
wealth

35B. If a person wilfully fails to furnish in due time the return of his net wealth which he is required to furnish under sub-section (1) of section 14 or by notice given under sub-section (2) of section 14 or under sub-section (1) of section 17, he shall be punishable,—

(i) in a case where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which may extend to seven years and with fine:

Provided that, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months;

(ii) in any other case, with rigorous imprisonment for a term which may extend to three years, or with fine or with both:

Provided that a person shall not be proceeded against under this section for failure to furnish in due time the return of net wealth under sub-section (1) of section 14—

(i) for any assessment year commencing prior to the 1st day of April, 1974; or

(ii) for any assessment year commencing on or after the 1st day of April, 1974, if—

(a) the return is furnished by him before the expiry of the assessment year; or

(b) the tax payable by him on his net wealth determined on regular assessment does not exceed three thousand rupees.

35C. If a person wilfully fails to produce, or cause to be produced, on or before the date specified in any notice under sub-section (4) of section 16, such accounts, records and documents as are referred to in the notice, he shall be punishable with rigorous imprisonment for a term which may extend to one year or with fine equal to a sum calculated at a rate which shall not be less than four rupees or more than ten rupees for every day during which the default continues or with both.

Failure to produce accounts, records, etc.

35D. If a person makes a statement in any verification under this Act (other than under section 34AB) or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,—

False statement in verification, etc., made under certain provisions of the Act

(i) in a case where the amount of tax which would have been evaded if the statement or account had been accepted as true, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which may extend to seven years and with fine;

Provided that, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months;

(ii) in any other case, with rigorous imprisonment for a term which may extend to three years or with fine or with both.

35E. If a person makes a statement in a verification mentioned in section 34AB which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

False statement in verification mentioned in section 34AB

35F. If a person abets or induces in any manner another person to make and deliver an account, statement or declaration relating to any net wealth chargeable to tax which is false and which he either knows to be false or does not believe to be true or to commit an offence under sub-section (1) of section 35A, he shall be punishable,—

Abetment of false return, etc.

(i) in a case where the amount of tax, penalty or interest, which would have been evaded, if the declaration, account or statement had been accepted as true, or otherwise, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which may extend to seven years and with fine;

Provided that, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months;

(ii) in any other case, with rigorous imprisonment for a term which may extend to three years, or with fine or with both.

Punish-
ment for
second
and sub-
sequent
offences.

35G. If any person convicted of an offence under sub-section (1) of section 35A or section 35B or section 35D or section 35F, is again convicted for the same offence, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which may extend to seven years and with fine:

Provided that, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months.

Offences
by Hindu
undivided
families.

35H. (1) Where an offence under this Act has been committed by a Hindu undivided family, the Karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the Karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any member thereof, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Prosecu-
tions at
the ins-
tance of
Commis-
sioner and
power of
Commis-
sioner to
compound
offences.

35I. (1) A person shall not be proceeded against for an offence under this Act except at the instance of the Commissioner.

(2) The Commissioner may, either before or after the institution of proceedings, compound any offence under this Act.

5 of 1898.

35J. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under section 35A or section 35B or section 35D or section 35F shall be deemed to be non-cognizable within the meaning of that Code.

Certain offences to be non-cognizable.

35K. (1) A person shall not be proceeded against for an offence under section 35A or section 35D in relation to the assessment for an assessment year in respect of which the penalty imposable on him under clause (iii) of sub-section (1) of section 18 has been reduced or waived by an order under section 18B.

Bar on prosecutions and on in-admissibility of evidence in certain circumstances.

(2) Where any proceeding for prosecution has been taken against any person under this Act, any statement made or account or other document produced by such person before any of the Wealth-tax authorities specified in sections 8, 9, 10, 10A and 11 shall not be inadmissible as evidence for the purpose of such proceedings merely on the ground that such statement was made or such account or other document was produced in the belief that the penalty imposable would be reduced or waived under section 18B or that the offence in respect of which such proceeding was taken would be compounded.

35L. No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act.

Jurisdiction of courts.

5 of 1898.
20 of 1958.

35M. Nothing contained in section 562 of the Code of Criminal Procedure, 1898 or in the Probation of Offenders Act, 1958 shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.

Section 562 of the Code of Criminal Procedure, 1898 and the Probation of Offenders Act, 1958 not to apply.

35N. (1) Where during the course of any search made under section 37A, any books of account or other documents, articles or things including money have been found in the possession or control of any person and such books of account or other documents are tendered, or such articles or things including money are relied upon, by the prosecution in evidence against such person or against such person and the person referred to in section 35F for an offence under this Act, the provisions of sub-section (5) of section 37A shall, so far as may be, apply in relation to such books of account or other documents, articles or things including money.

Presumption as to books of account, etc., in certain cases.

(2) Where—

(i) any books of account or other documents taken into custody, from the possession or control of any person by any officer or authority under clause (a) or clause (b) of sub-section (1) of section 37B, are delivered to the requisitioning officer under sub-section (2) of that section; or

(ii) any note or inventory of any articles or things including money taken into custody, from the possession of any person, by any officer or authority under clause (c) of sub-section (1) of section 37B, is furnished to the requisitioning officer under sub-section (2) of that section,

and such books of account or other documents are tendered, or such note or inventory is relied upon, by the prosecution in evidence against such person or against such person and the person referred to in section 35F for an offence under this Act, the provisions of sub-section (5) of section 37A shall, so far as may be, apply in relation to such books of account or other documents or, as the case may be, the articles or things including money, covered by such note or inventory.”.

Omission
of sec-
tion 36.

109. Section 36 of the Wealth-tax Act shall be omitted.

Substitu-
tion of
new sec-
tions for
section
37A.

110. For section 37A of the Wealth-tax Act, the following sections shall be substituted, namely:—

Power of
search
and
seizure.

‘37A. (1) Where the Director of Inspection or the Commissioner or any such Deputy Director of Inspection or Deputy Commissioner (Assessment) as may be empowered in this behalf by the Board, in consequence of information in his possession, has reason to believe that—

(a) any person to whom a notice under sub-section (4) of section 16 or a summons under section 37 was issued to produce, or cause to be produced, any books of account or other documents, has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such notice or summons, or

(b) any person to whom a notice or summons as aforesaid has been or might be issued will not, or would not, produce, or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under this Act, or

(c) any person is in possession of any articles or things including money disproportionate to his known assets, particulars of which will be useful for, or relevant to, any proceeding under this Act,

then,—

(A) the Director of Inspection or the Commissioner, as the case may be, may authorise any Deputy Director of Inspection,

Deputy Commissioner (Assessment), Assistant Director of Inspection or Wealth-tax Officer, or

(B) such Deputy Director of Inspection or Deputy Commissioner (Assessment) may authorise any Assistant Director of Inspection or Wealth-tax Officer,

(the officer so authorised in all cases being hereafter in this section referred to as the authorised officer) to—

(i) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account or other documents, articles or things including money are kept;

(ii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account or other documents, articles or things including money;

(iii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available;

(iv) seize any such books of account or other documents;

(v) place marks of identification on any such books of account or other documents or make, or cause to be made, extracts or copies therefrom;

(vi) make a note or an inventory of any articles or things including money found which, in his opinion, will be useful for, or relevant to, any proceeding under this Act:

Provided that where any building, place, vessel, vehicle or aircraft referred to in clause (i) is within the area of jurisdiction of any Commissioner but such Commissioner has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c), then, notwithstanding anything contained in section 10, it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the Commissioner having jurisdiction over such person may be prejudicial to the interests of the revenue.

(2) Where any Commissioner, in consequence of information in his possession, has reason to suspect that any books of account or other documents, articles or things including money in respect of which an officer has been authorised by the Director of Inspection or any other Commissioner or any such Deputy Director of Inspection or Deputy Commissioner (Assessment) as may be empowered in this behalf by the Board to take action under clauses (i) to (vi) of sub-section (1) are kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), such Commissioner may, notwithstanding anything contained in section 10, authorise the said officer to take action under any of the

clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.

(3) The authorised officer may requisition the services of any police officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (1) or sub-section (2) and it shall be the duty of every such officer to comply with such requisition.

(ii) the contents of such books of account or other documents or seizure, examine on oath any person who is found to be in possession or control of any books of account or other documents, articles or things including money and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under this Act.

(5) Where any books of account or other documents, articles or things including money are found in the possession or control of any person in the course of a search, it may be presumed that—

(i) such books of account or other documents, articles or things including money belong to such person;

(ii) the contents of such books of account or other documents are true; and

(iii) the signature and every other part of such books of account or other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

(6) The books of account or other documents seized under sub-section (1) or sub-section (2) shall not be detained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the Commissioner for such retention is obtained:

Provided that the Commissioner shall not authorise the retention of the books of account or other documents for a period exceeding thirty days after all the proceedings under this Act in respect of the years for which the books of account or other documents are relevant are completed.

(7) The person from whose custody any books of account or other documents are seized under sub-section (1) or sub-section (2) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf at such place and time as the authorised officer may appoint in this behalf.

(8) Where the authorised officer has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1), the books of account or other documents seized under that sub-section shall be handed over by the authorised officer to the Wealth-tax Officer having jurisdiction over such person within a period of fifteen days of such seizure and thereupon the powers exercisable by the authorised officer under sub-section (6) or sub-section (7) shall be exercisable by such Wealth-tax Officer.

(9) If a person legally entitled to the books of account or other documents seized under sub-section (1) or sub-section (2) objects for any reason to the approval given by the Commissioner under sub-section (6), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents.

(10) On receipt of the application under sub-section (9), the Board may, after giving the applicant an opportunity of being heard, pass such orders thereon as it thinks fit.

5 of 1898.

(11) The provisions of the Code of Criminal Procedure, 1898 relating to searches shall apply, so far as may be, to searches under this section.

(12) The Board may make rules in relation to searches or seizure under this section; and in particular and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer—

(i) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

(ii) for ensuring the safe custody of any books of account or other documents seized.

37B. (1) Where the Director of Inspection or the Commissioner, in consequence of information in his possession, has reason to believe that—

Power to requisition books of account, etc.

(a) any person to whom a notice under sub-section (4) of section 16 or a summons under section 37 was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such notice or summons and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, or

(b) any books of account or other documents will be useful for, or relevant to, any proceeding under this Act and any person to whom a notice or summons as aforesaid has been or might be issued will not, or would not, produce or cause to be produced such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, or

(c) any articles or things including money disproportionate to the known assets of any person, particulars of which will be useful for, or relevant to, any proceeding under this Act, have been taken into custody by any officer or authority, under any other law for the time being in force, from the possession of such person,

then, the Director of Inspection or the Commissioner may authorise any Deputy Director of Inspection, Deputy Commissioner (Assessment), Assistant Director of Inspection or Wealth-tax Officer (hereafter in this section referred to as the requisitioning officer) to require such officer or authority,—

(i) in a case falling under clause (a) or clause (b), to deliver such books of account or other documents to the requisitioning officer;

(ii) in a case falling under clause (c), to furnish a note or an inventory of such articles or things including money to the requisitioning officer.

(2) On a requisition being made under sub-section (1),—

(i) in a case falling under clause (a) or clause (b) of that sub-section, the officer or authority referred to therein shall deliver the books of account or other documents to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody;

(ii) in a case falling under clause (c), the officer or authority referred to therein shall furnish the note or inventory to the requisitioning officer within a reasonable period.

(3) Where any books of account or other documents have been delivered to the requisitioning officer, the provisions of sub-sections (5) to (12) (both inclusive) of section 37A shall, so far as may be, apply as if such books of account or other documents had been seized under sub-section (1) of that section by the requisitioning officer from the custody of the person referred to in clause (a) or clause (b), as the case may be, of sub-section (1) of this section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-sections, the words "the requisitioning officer" were substituted.

Amendment of
section
42A.

111. In section 42A of the Wealth-tax Act,—

(i) in sub-section (1), after the word "proceedings", the words "or prosecutions" shall be inserted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Deputy Commissioner (Appeals) has expired without an appeal having been presented or the appeal, if presented, has been disposed of."

112. After section 42B of the Wealth-tax Act, the following section shall be inserted, namely:—

Insertion of new section 42C.

“42C. No return of wealth, assessment, notice, summons or other proceeding furnished, made or issued or taken or purported to have been furnished, made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of wealth, assessment, notice, summons or other proceeding if such return of wealth, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.”.

Return of wealth, etc., not to be invalid on certain grounds.

113. In sub-section (4) of section 46 of the Wealth-tax Act,—

Amendment of section 46.

(i) for the words “or in two successive sessions”, the words “or in two or more successive sessions” shall be substituted;

(ii) for the words “in which it is so laid or the session immediately following”, the words “immediately following the session or the successive sessions aforesaid” shall be substituted.

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

18 of 1958.

114. Throughout the Gift-tax Act, 1958 (hereafter in this Chapter referred to as the Gift-tax Act),—

Substitution of certain expressions by certain other expressions.

(i) for the expression “Appellate Assistant Commissioner”, wherever it occurs, the expression “Deputy Commissioner (Appeals)” shall be substituted;

(ii) for the expression “Inspecting Assistant Commissioner of Gift-tax”, wherever it occurs, the expression “Deputy Commissioner (Assessment)” shall be substituted;

(iii) for the expression “Inspecting Assistant Commissioner”, wherever it occurs, the expression “Deputy Commissioner (Assessment)” shall be substituted,

and such other consequential amendments as the rules of grammar may require shall also be made.

115. In section 2 of the Gift-tax Act,—

Amendment of section 2.

(i) clauses (i) and (xvi) shall be omitted;

(ii) clause (viiia) shall be re-lettered as clause (viic) and before that clause as so re-lettered, the following clauses shall be inserted, namely:—

“(viiia) “Deputy Commissioner (Appeals)” means a person appointed to be a Deputy Commissioner of Gift-tax (Appeals) under section 8;

(viib) “Deputy Commissioner (Assessment)” means a person appointed to be a Deputy Commissioner of Gift-tax (Assessment) under section 10;”;

(iii) for clause (xv), the following clause shall be substituted, namely:—

“(xv) “Income-tax Officer” means a person appointed to be a Senior Income-tax Officer or an Income-tax Officer under section 117 of the Income-tax Act;”.

Insertion
of new
section
6A.

116. In Chapter II of the Gift-tax Act, after section 6, the following section shall be inserted, namely:—

Aggrega-
tion of
gifts made
during a
certain
period.

“6A. Notwithstanding anything contained in this Act, where an assessee has made taxable gifts during any previous year and also during any one or more of the four previous years immediately preceding such previous year, the gift-tax payable by him for the assessment year relevant to such previous year (hereafter in this section referred to as the assessment year) shall be determined in the following manner, namely:—

(a) the value of the taxable gifts made during any one or more of the four previous years immediately preceding such previous year shall be aggregated with the value of the taxable gifts made by the assessee during such previous year and gift-tax shall be calculated on the aggregate value at the rate or rates applicable during the assessment year;

(b) from the amount of gift-tax calculated under clause (a), there shall be deducted an amount equal to the gift-tax payable had the value of the taxable gifts made during one or more of the four previous years immediately preceding such previous year been aggregated and tax levied thereon at the rate or rates applicable during the assessment year, and the balance shall be the amount of gift-tax payable by the assessee.”.

Amend-
ment of
section
7.

117. In section 7 of the Gift-tax Act, for the proviso, the following proviso shall be substituted, namely:—

“Provided that where two or more Income-tax Officers have jurisdiction or exercise powers under the Income-tax Act in respect of any person, they shall have concurrent jurisdiction and shall perform their functions of a Gift-tax Officer under this Act in respect of such person in accordance with such general or special orders in writing as the Commissioner or the Deputy Commissioner (Assessment) authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions.”.

Insertion
of new
section
7AA.

118. After section 7A of the Gift-tax Act, the following section shall be inserted, namely:—

"7AA. (1) The Commissioner may, by general or special order in writing, direct that all or any of the powers or functions conferred on or assigned to the Gift-tax Officer or Gift-tax Officers by or under this Act in respect of any area, or cases or classes of cases, or persons or classes of persons, shall be exercised or performed concurrently by the Deputy Commissioner (Assessment).

Concurrent jurisdiction of Deputy Commissioner (Assessment) and Gift-tax Officer.

(2) Where under sub-section (1), a Deputy Commissioner (Assessment) exercises concurrent jurisdiction with one or more Gift-tax Officers in respect of any area, cases, or classes of cases, persons or classes of persons, the Gift-tax Officer or Gift-tax Officers shall exercise the powers and perform the functions under this Act in relation thereto as the Deputy Commissioner (Assessment) may direct.

(3) Without prejudice to the generality of the provisions contained in sub-section (2) of section 12, every Gift-tax Officer shall also observe and follow such instructions as may be issued to him for his guidance by the Deputy Commissioner (Assessment) within whose jurisdiction he performs his functions in relation to any particular proceeding or the initiation of any proceeding under this Act:

Provided that no instructions which are prejudicial to the assessee shall be issued before an opportunity is given to the assessee to be heard.

Explanation.—For the purposes of this sub-section, no instruction as to the lines on which an investigation connected with the assessment should be made shall be deemed to be an instruction prejudicial to the assessee.

(4) Where an order is made under sub-section (1) and the Deputy Commissioner (Assessment) exercises the powers or performs the functions of a Gift-tax Officer in respect of any case or person or proceeding under this Act, references in this Act or in any rule made thereunder to the Gift-tax Officer shall be construed as including references to the Deputy Commissioner (Assessment) and, accordingly,—

(i) any provision of this Act requiring approval or sanction of the Deputy Commissioner (Assessment) shall not apply;

(ii) any appeal which would otherwise have lain to the Deputy Commissioner (Appeals) shall lie to the Commissioner;

(iii) any appeal which would have lain from an order of the Deputy Commissioner (Appeals) to the Appellate Tribunal shall lie from the order of the Commissioner."

119. For sub-section (1) of section 7B of the Gift-tax Act, the following sub-section shall be substituted, namely:—

Amendment of section 7B.

"(1) The Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer

any case from one or more of the following Officers subordinate to him, namely:—

(a) any Gift-tax Officer or Gift-tax Officers,

(b) any Gift-tax Officer or Gift-tax Officers having concurrent jurisdiction with the Deputy Commissioner (Assessment),

to any other Gift-tax Officer or Gift-tax Officers [whether with or without concurrent jurisdiction with the Deputy Commissioner (Assessment)] and the Board may similarly transfer any case from any one or more of the Officers mentioned in clauses (a) and (b) to any one or more of the other Officers aforesaid:

Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where the transfer is from any Gift-tax Officer or Gift-tax Officers to any other Gift-tax Officer or Gift-tax Officers [whether with or without concurrent jurisdiction with the Deputy Commissioner (Assessment)] to any other Gift-tax Officer or Gift-tax Officers [whether with or without concurrent jurisdiction with the Deputy Commissioner (Assessment)] and the offices of all such Officers are situated in the same city, locality or place:

Provided further that,—

(a) where any case has been transferred from any Gift-tax Officer or Gift-tax Officers to two or more Gift-tax Officers, the Gift-tax Officers to whom the case is so transferred shall have concurrent jurisdiction over the case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner or the Deputy Commissioner (Assessment), authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions,

(b) where any case has been transferred from any Gift-tax Officer or Gift-tax Officers [whether with or without concurrent jurisdiction with the Deputy Commissioner (Assessment)] to two or more Gift-tax Officers with concurrent jurisdiction with the Deputy Commissioner (Assessment), the Officers [including the Deputy Commissioner (Assessment)] to whom the case is so transferred shall have concurrent jurisdiction over such case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner may make for the purpose of facilitating the performance of such functions and the Gift-tax Officers shall perform their functions also in accordance with such orders or directions as the Deputy Commissioner (Assessment) may make under section 7 or, as the case may be, under sub-section (2) of section 7AA.”.

Amend-
ment of
section
8.

120. In section 8 of the Gift-tax Act,—

(i) for the words “an Appellate Assistant Commissioner of Gift-tax”, the words and brackets “a Deputy Commissioner of Gift-tax (Appeals)” shall be substituted;

(ii) for the words "Appellate Assistant Commissioners", at both the places where they occur, the words and brackets "Deputy Commissioners of Gift-tax (Appeals)" shall be substituted.

121. In section 10 of the Gift-tax Act, for the words "Inspecting Assistant Commissioners of Gift-tax" and the words "Inspecting Assistant Commissioners", the words and brackets "Deputy Commissioners of Gift-tax (Assessment)" shall be substituted.

Amendment of section 10.

122. In section 11AA of the Gift-tax Act, after clause (b), the following clause shall be inserted, namely:—

Amendment of section 11AA.

"(c) in a case where two or more Gift-tax Officers have concurrent jurisdiction over such assessee in respect of such function, be the Gift-tax Officers empowered to perform such function by the Board or, as the case may be, the Gift-tax Officers to whom such function has been assigned by an order of the Commissioner or by an order or a direction of the Deputy Commissioner (Assessment) under section 7 or, as the case may be, under sub-section (2) of section 7AA."

123. In sub-section (1) of section 11B of the Gift-tax Act, for the words "Inspecting Assistant Commissioners", the words and brackets "Deputy Commissioners (Assessment)" shall be substituted.

Amendment of section 11B.

124. In sub-section (1) of section 12 of the Gift-tax Act, in the proviso, for the words "Appellate Assistant Commissioner of Gift-tax", the words and brackets "Deputy Commissioner (Appeals)" shall be substituted.

Amendment of section 12.

125. In section 14A of the Gift-tax Act, for clauses (c) and (d), the following clauses shall be substituted, namely:—

Amendment of section 14A.

"(c) in the case of a company, by the managing director thereof or where for any unavoidable reason such managing director is not able to sign and verify the return or where there is no managing director, by any other director thereof or any other person for the time being mainly in charge of the affairs of the company;

(d) in the case of a firm, by the managing partner thereof or where for any unavoidable reason such managing partner is not able to sign and verify the return, or where there is no managing partner as such, by any partner for the time being mainly in charge of the affairs of the firm;"

126. After section 16 of the Gift-tax Act, the following section shall be inserted, namely:—

Insertion of new section 16A.

"16A. (1) No order of assessment shall be made under section 15 at any time after the expiration of a period of—

Time-limit for completion of assessment and re-assessment.

(a) four years from the 1st day of April, 1973, where the assessment year is an assessment year commencing on or before that date;

(b) four years from the end of the assessment year in which the gifts were first assessable, where the assessment

year is an assessment year commencing on or after the 1st day of April, 1974.

(2) No order of assessment or re-assessment shall be made under section 16,—

(a) where the assessment or re-assessment is to be made in relation to any proceeding under this Act which is pending on the 1st day of April, 1973, at any time after the expiration of a period of four years from the 1st day of April, 1973;

(b) where the assessment or re-assessment is to be made in a case falling within clause (a) of sub-section (1) of section 16 for which a notice has been served under that sub-section on or after the 1st day of April, 1973, at any time after the expiration of a period of four years from the end of the assessment year in which the said notice was served;

(c) where the assessment or re-assessment is to be made in a case falling within clause (b) of sub-section (1) of section 16 for which a notice has been served under that sub-section on or after the 1st day of April, 1973, after the expiration of a period of—

(i) four years from the end of the assessment year in which the gifts were first assessable, or

(ii) one year from the date of service of such notice, whichever period expires later.

Explanation.—In computing the period of limitation for the purposes of this section,—

(i) the time taken in reopening the whole or any part of the proceeding;

(ii) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 38;

(iii) the time taken in the prosecution of any person for any offence under this Act committed by him in the course of any assessment proceeding under this Act (such time being computed from the date of the filing of the complaint to the date of its final disposal); and

(iv) the period during which the assessment proceeding is stayed by an order or injunction of any court, shall be excluded.”.

Amend-
ment of
section
17.

127. In section 17 of the Gift-tax Act,—

(i) in sub-section (1), in clause (i), the words “but not exceeding in the aggregate fifty per cent of the tax” shall be omitted;

(ii) in sub-section (3), for the words “the Gift-tax Officer shall refer the case to the Inspecting Assistant Commissioner who shall, for the purpose, have all the powers conferred under this section for

the imposition of penalty", the following shall be substituted, namely:—

"the Gift-tax Officer shall not make any order for payment, by way of penalty, without the previous approval of the Deputy Commissioner (Assessment)".

128. After section 17 of the Gift-tax Act, the following section shall be inserted, namely:—

Insertion
of new
section
17A,

"17A. (1) If a person,—

Penalty
for
failure
to answer
questions,
sign
state-
ments,
etc.

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question demanded of him by a Gift-tax Officer or a Deputy Commissioner (Appeals) or a Deputy Commissioner (Assessment) or a Commissioner in the exercise of his powers under this Act, or

(b) refuses to sign any statement made by him in the course of any proceeding under this Act which a Gift-tax Officer or a Deputy Commissioner (Appeals) or a Deputy Commissioner (Assessment) or a Commissioner may legally require him to sign,

he shall pay, by way of penalty, a sum which may extend to one thousand rupees.

(2) If a person, without reasonable cause or excuse, fails to furnish within the time specified any statement or information which such person is bound to furnish to the Gift-tax Officer under section 37, he shall pay, by way of penalty, a sum which may extend to ten rupees for every day during which the failure continues.

(3) No order shall be made under this section except by a Deputy Commissioner (Appeals) or a Deputy Commissioner (Assessment) or a Commissioner, and where a contravention of the provisions of this section occurs in the course of any proceeding before a Gift-tax Officer, the Gift-tax Officer shall refer the case to the Deputy Commissioner (Assessment) for passing such orders as he deems fit.

(4) No order under this section shall be passed by any Officer referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such Officer."

129. For section 18 of the Gift-tax Act, the following section shall be substituted, namely:—

Substitu-
tion of
new
section
for
section
18,

Rebate on
advance
pay-
ments.

"18. If a person making a taxable gift pays into the treasury within fifteen days of his making the gift any part of the amount of tax due on the gift calculated at the rates specified in the Schedule, he shall, at the time of assessment under section 15, be given credit—

(i) for the amount so paid; and

(ii) for a sum equal to one-ninth of the amount so paid, so however, that such sum shall in no case exceed one-tenth of the tax due on the gift.

Explanation.—If a person makes more than one taxable gift in the course of a previous year, the amount of tax due on any one of such gifts shall be the difference between the total amount of tax due on the aggregate value of all the taxable gifts so far made, including the taxable gift in respect of which tax has to be paid, calculated at the rates specified in the Schedule and the total amount of tax on the aggregate value of all the gifts made during that year excluding the taxable gift in respect of which tax has to be paid."

Amend-
ment of
section
23.

130. In sub-section (1) of section 23 of the Gift-tax Act,—

(i) for the words and figures "under section 17". the words, figures and letter "under section 17 or section 17A" shall be substituted;

(ii) for the words, brackets and figures "under sub-section (3) of section 17", the words, figures and letter "under section 17A" shall be substituted.

Amend-
ment of
section 25.

131. In sub-section (1) of section 25 of the Gift-tax Act, for the words and figures "under section 17", the words, figures and letter "under section 17 or section 17A" shall be substituted.

Amend-
ment of
section
33A.

132. In section 33A of the Gift-tax Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) Where the whole or any part of the refund referred to in sub-section (3) is due to an assessee as a result of any amount having been paid by him in pursuance of any order of assessment or penalty and such amount or any part thereof having been found in appeal or other proceeding under this Act to be in excess of the amount which such assessee is liable to pay as tax or penalty or both, as the case may be, under this Act, the Central Government shall pay to such assessee simple interest at the rate specified in sub-section (3) on the amount so found to be in excess—

(i) from the date such amount was paid; or

(ii) where such amount was paid in instalments, from the date or dates on which any payment made came to be in excess of the amount due from such assessee as a result of the appeal or other proceeding,

to the date on which the refund is granted:

Provided that no interest under this sub-section shall be payable for a period of one month from the date of the passing of the order in appeal or other proceeding:

Provided further that where any interest is payable to an assessee under this sub-section, no interest under sub-section (3) shall be payable to him in respect of the amount so found to be in excess."

133. In sub-section (1) of section 35 of the Gift-tax Act.—

Amendment of section 35.

(i) in clause (b), the words, brackets and figure "sub-section (2) or" shall be omitted;

(ii) clause (c) shall be omitted.

134. After section 35 of the Gift-tax Act, the following sections shall be inserted, namely:—

Insertion of new sections 35A, 35B and 35C.

'35A. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means a body corporate, and includes—

(i) a firm, and

(ii) an association of persons or a body of individuals, whether incorporated or not; and

(b) "director", in relation to—

(i) a firm, means a partner in the firm,

(ii) an association of persons or a body of individuals, means any member controlling the affairs thereof.

35B. (1) Where an offence under this Act has been committed by a Hindu undivided family, the Karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by Hindu undivided families.

Provided that nothing contained in this sub-section shall render the Karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any member of the Hindu undivided family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Section
562 of
the Code
of Criminal
Procedure,
1898 and
the
Probation
of Offenders
Act
1958 not
to apply.

35C. Nothing contained in section 562 of the Code of Criminal Procedure, 1898, or in the Probation of Offenders Act, 1958, shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.

5 of 1898.
20 of 1958.

Amend-
ment of
section
41A.

135. In section 41A of the Gift-tax Act,—

(i) in sub-section (1), after the word “proceedings”, the words “or prosecutions” shall be inserted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Deputy Commissioner (Appeals) has expired without an appeal having been presented or the appeal, if presented, has been disposed of.”.

Insertion
of new
section
41C.

136. After section 41B of the Gift-tax Act, the following section shall be inserted, namely:—

Return
of gifts,
etc., not to
be invalid
on certain
grounds.

“41C. No return of gifts, assessment, notice, summons or other proceeding, furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of gifts, assessment, notice, summons or other proceeding, if such return of gifts, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.”.

137. In sub-section (4) of section 46 of the Gift-tax Act,—

Amend-
ment of
section 46.

(i) for the words “or in two successive sessions”, the words “or in two or more successive sessions” shall be substituted;

(ii) for the words “in which it is so laid or the session immediately following”, the words “immediately following the session or the successive sessions aforesaid” shall be substituted.

CHAPTER V

AMENDMENTS TO THE COMPANIES (PROFITS) SURTAX ACT, 1964

7 of 1964.

138. Throughout the Companies (Profits) Surtax Act, 1964 [hereafter in this Chapter referred to as the Companies (Profits) Surtax Act],—

Substitu-
tion of
certain
expres-
sions by
certain
other ex-
pressions.

(i) for the expression “Inspecting Assistant Commissioner”, wherever it occurs, the expression “Deputy Commissioner (Assessment)” shall be substituted;

(ii) for the expression “Appellate Assistant Commissioner”, wherever it occurs, the expression “Deputy Commissioner (Appeals)” shall be substituted,

and such other consequential amendments as the rules of grammar may require shall also be made.

139. In sub-section (1) of section 3 of the Companies (Profits) Surtax Act, for the words “Appellate Assistant Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax”, the words and brackets “Deputy Commissioner of Income-tax (Appeals), Deputy Commissioner of Income-tax (Assessment)” shall be substituted.

Amend-
ment of
section 3.

140. In section 18 of the Companies (Profits) Surtax Act,—

Amend-
ment of
section 18.

(i) after the figures “125”, the figures and letter “125A” shall be inserted;

(ii) after the figures and letter “132A”, the figures and letter “132B” shall be inserted;

(iii) after the figures “281”, the figures and letter “281B” shall be inserted.

141. In sub-section (3) of section 25 of the Companies (Profits) Surtax Act,—

Amend-
ment of
section 25.

(i) for the words “or in two successive sessions”, the words “or in two or more successive sessions” shall be substituted;

(ii) for the words “in which it is so laid or the session immediately following”, the words “immediately following the session or the successive sessions aforesaid” shall be substituted.

CHAPTER VI

MISCELLANEOUS

Change of designation of certain Income-tax authorities not to affect proceedings, etc.

142. (1) Every Appellate Assistant Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax, Income-tax Officer of Class I Service and Income-tax Officer of Class II Service holding office as such immediately before the commencement of this Act shall, on and from such commencement, hold office as Deputy Commissioner of Income-tax (Appeals), Deputy Commissioner of Income-tax (Assessment), Senior Income-tax Officer and Income-tax Officer respectively.

(2) Any proceeding under the Indian Income-tax Act, 1922 or under the Income-tax Act, 1961 or under any other law pending before the Appellate Assistant Commissioner of Income-tax or the Inspecting Assistant Commissioner of Income-tax or the Income-tax Officer of Class I Service or the Income-tax Officer of Class II Service immediately before the commencement of this Act, shall, on and from such commencement, be deemed to be a proceeding pending before the Deputy Commissioner of Income-tax (Appeals) or the Deputy Commissioner of Income-tax (Assessment) or the Senior Income-tax Officer or the Income-tax Officer, as the case may be, and shall be disposed of by him in accordance with the provisions of the Indian Income-tax Act, 1922 or the Income-tax Act, 1961 or such other law.

11 of 1922.
43 of 1961.

(3) The change of designation of the Appellate Assistant Commissioner of Income-tax or the Inspecting Assistant Commissioner of Income-tax or of the Income-tax Officer of Class I Service or of the Income-tax Officer of Class II Service by virtue of the provisions of this Act shall not render defective any legal proceedings by or against him and any legal proceedings, which might have been continued or commenced by or against the Appellate Assistant Commissioner of Income-tax or the Inspecting Assistant Commissioner of Income-tax or the Income-tax Officer of Class I Service or the Income-tax Officer of Class II Service may be continued or commenced by or against the Deputy Commissioner of Income-tax (Appeals) or the Deputy Commissioner of Income-tax (Assessment) or the Senior Income-tax Officer or the Income-tax Officer, as the case may be.

(4) Where any action is to be or may be taken after the commencement of this Act in relation to anything done before such commencement under the Indian Income-tax Act, 1922 or the Income-tax Act, 1961 or under any other law by an Appellate Assistant Commissioner of Income-tax or an Inspecting Assistant Commissioner of Income-tax or an Income-tax Officer of Class I Service or an Income-tax Officer of Class II Service, references to the Appellate Assistant Commissioner of Income-tax or to the Inspecting Assistant Commissioner of Income-tax or to the Income-tax Officer of Class I Service or to the Income-tax Officer of Class II Service in any document shall be construed as references to the Deputy Commissioner of Income-tax (Appeals), the Deputy Commissioner of Income-tax (Assessment), the Senior Income-tax Officer and the Income-tax Officer respectively.

11 of 1922.
43 of 1961.

143. (1) Every Appellate Assistant Commissioner of Wealth-tax and Inspecting Assistant Commissioner of Wealth-tax holding office as such immediately before the commencement of this Act shall, on and from such commencement, hold office as Deputy Commissioner of Wealth-tax (Appeals) and Deputy Commissioner of Wealth-tax (Assessment), respectively.

Change of designation of certain Wealth-tax authorities not to affect proceedings, etc.

27 of 1957.

(2) Any proceeding under the Wealth-tax Act, 1957 pending before the Appellate Assistant Commissioner of Wealth-tax or the Inspecting Assistant Commissioner of Wealth-tax immediately before the commencement of this Act shall, on and from such commencement, be deemed to be a proceeding pending before the Deputy Commissioner of Wealth-tax (Appeals) or the Deputy Commissioner of Wealth-tax (Assessment), as the case may be, and shall be disposed of by him in accordance with the provisions of that Act.

(3) The change of designation of the Appellate Assistant Commissioner of Wealth-tax or the Inspecting Assistant Commissioner of Wealth-tax by virtue of the provisions of this Act shall not render defective any legal proceedings by or against him and any legal proceedings, which might have been continued or commenced by or against the Appellate Assistant Commissioner of Wealth-tax or the Inspecting Assistant Commissioner of Wealth-tax may be continued or commenced by or against the Deputy Commissioner of Wealth-tax (Appeals) or the Deputy Commissioner of Wealth-tax (Assessment), as the case may be.

27 of 1957.

(4) Where any action is to be or may be taken after the commencement of this Act in relation to anything done before such commencement under the Wealth-tax Act, 1957 by an Appellate Assistant Commissioner of Wealth-tax or an Inspecting Assistant Commissioner of Wealth-tax, references to the Appellate Assistant Commissioner of Wealth-tax or to the Inspecting Assistant Commissioner of Wealth-tax in any document shall be construed as references to the Deputy Commissioner of Wealth-tax (Appeals) and the Deputy Commissioner of Wealth-tax (Assessment) respectively.

144. (1) Every Appellate Assistant Commissioner of Gift-tax and Inspecting Assistant Commissioner of Gift-tax holding office as such immediately before the commencement of this Act shall, on and from such commencement, hold office as Deputy Commissioner of Gift-tax (Appeals) and Deputy Commissioner of Gift-tax (Assessment), respectively.

Change of designation of certain Gift-tax authorities not to affect proceedings, etc.

18 of 1958.

(2) Any proceeding under the Gift-tax Act, 1958 pending before the Appellate Assistant Commissioner of Gift-tax or the Inspecting Assistant Commissioner of Gift-tax immediately before the commencement of this Act shall, on and from such commencement, be deemed to be a proceeding pending before the Deputy Commissioner of Gift-tax (Appeals) or the Deputy Commissioner of Gift-tax (Assessment), as the case may be, and shall be disposed of by him in accordance with the provisions of that Act.

(3) The change of designation of the Appellate Assistant Commissioner of Gift-tax or the Inspecting Assistant Commissioner of Gift-tax

by virtue of the provisions of this Act shall not render defective any legal proceedings by or against him and any legal proceedings, which might have been continued or commenced by or against the Appellate Assistant Commissioner of Gift-tax or the Inspecting Assistant Commissioner of Gift-tax may be continued or commenced by or against the Deputy Commissioner of Gift-tax (Appeals) or the Deputy Commissioner of Gift-tax (Assessment), as the case may be.

(4) Where any action is to be or may be taken after the commencement of this Act in relation to anything done before such commencement under the Gift-tax Act, 1958 by an Appellate Assistant Commissioner of Gift-tax or an Inspecting Assistant Commissioner of Gift-tax, references to the Appellate Assistant Commissioner of Gift-tax or to the Inspecting Assistant Commissioner of Gift-tax in any document shall be construed as references to the Deputy Commissioner of Gift-tax (Appeals) and the Deputy Commissioner of Gift-tax (Assessment) respectively.

18 of 1958.

Construction of references to Appellate Assistant Commissioner of Income-tax, etc.

145. Any reference to the Officer specified in column 1 of the Table below, by whatever form of words, in any enactment, regulation, order, bye-law, rule, scheme, notification, or other instrument, having immediately before the commencement of this Act the force of law, shall, unless the context otherwise requires, be construed, on and from such commencement, as a reference to the Officer specified in the corresponding entry in column 2 thereof.

THE TABLE

1	2
Appellate Assistant Commissioner of Income-tax.	Deputy Commissioner of Income-tax (Appeals).
Inspecting Assistant Commissioner of Income-tax.	Deputy Commissioner of Income-tax (Assessment).
Appellate Assistant Commissioner of Wealth-tax.	Deputy Commissioner of Wealth-tax (Appeals).
Inspecting Assistant Commissioner of Wealth-tax.	Deputy Commissioner of Wealth-tax (Assessment).
Appellate Assistant Commissioner of Gift-tax.	Deputy Commissioner of Gift-tax (Appeals).
Inspecting Assistant Commissioner of Gift-tax.	Deputy Commissioner of Gift-tax (Assessment).

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958, and the Companies (Profits) Surtax Act, 1964. The proposals relating to the amendments to these enactments have been formulated after a detailed examination of the recommendations of the Direct Taxes Enquiry Committee (Wanchoo Committee) and the Forty-seventh Report of the Law Commission on the Trial and Punishment of Social and Economic Offences, the latter in so far as they relate to direct taxes. Opportunity has been taken to sponsor some amendments on the basis of suggestions received from various other quarters as well. Technical difficulties arising in the operation of some of the provisions of these enactments have also been taken into account in formulating these proposals.

2. The main objectives of the amendments proposed to be made are to unearth black-money and prevent its proliferation; to fight and curb tax evasion; to check avoidance of tax through various legal devices, including the formation of trusts and diversion of income or wealth to members of family; to reduce tax arrears and to ensure that in future, tax arrears do not accumulate; to rationalise the exemptions and deductions available under the relevant enactments, and to streamline the administrative set-up and make it functionally efficient.

3. The notes on clauses, appended to the Bill, explain the various provisions thereof.

NEW DELHI;

The 23rd April, 1973.

Y. B. CHAVAN.

Notes on clauses

In these notes, references to "Act" in the notes on clauses 2 to 83 mean the Income-tax Act, 1961, the references to "Act" in the notes on clauses 84 to 113 mean the Wealth-tax Act, 1957, the references to "Act" in the notes on clauses 114 to 137 mean the Gift-tax Act, 1958 and the references to "Act" in the notes on clauses 138 to 141 mean the Companies (Profits) Surtax Act, 1964.

Clauses 2 and 3.—These clauses seek to provide for suitable amendments to the Act consequent on the change of designations of Appellate Assistant Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax, Income-tax Officer of Class I Service and Income-tax Officer of Class II Service.

Clause 4.—This clause seeks to amend section 10 of the Act so as to grant exemption to the remuneration received by a non-Indian citizen, who is either an employee of, or a consultant to, an approved foreign association or institution or a body established solely for philanthropic purposes, for services rendered in India for a purpose which has been approved by the Central Government.

Clause 5.—This clause seeks to make various amendments to section 11 of the Act relating to income from property held for charitable or religious purposes.

Sub-clauses (i), (ii) and (iii) seek to make the following amendments in the provisions regarding spending and accumulation of income of trusts:

(1) Only 75 per cent. of the income of the trust in a year need be spent and not 100 per cent. For this purpose, voluntary contributions referred to in section 12 shall be deemed to be part of the income.

(2) This 75 per cent. may be spent during the previous year or, at the option of the trustees, etc., during the next previous year.

(3) An income, which has accrued, but has not been received, may be spent during the previous year in which it is received or, at the option of the trustees, etc., during the next previous year.

(4) Income allowed to be accumulated or set apart under sub-section (2) of section 11 will not later be denied exemption if, due to circumstances beyond the control of the trustees, it cannot be spent for the purpose for which it was accumulated or set apart but is spent, with the permission of the Income-tax Officer, on any other charitable or religious purposes in conformity with the objects of the trust within the ten year period or in the year immediately following.

Clause 6.—This clause seeks to make various amendments to section 13 of the Act relating to religious and charitable trusts. They are as under:—

(1) The exemption so far available to charitable trusts or institutions created before 1-4-62 for the benefit of any particular religious community or caste will not now be available.

(2) If a trust or institution for the relief of the poor, education or medical relief carries on any activity for profit, any income from such activity will not be exempt from tax unless such activity is carried on in the course of the actual carrying out of a primary purpose of the trust or institution.

(3) Donations to charitable trusts will be taxed at the rate of 65 per cent. where the identity of the donors is not established to the satisfaction of the Income-tax Officer.

(4) There is to be a total ban, on trusts claiming tax exemption, on investing any of their funds in any business concern, including a limited company, not owned or controlled by the Government. Such a ban would apply even to the original corpus. But a period of 5 years is sought to be given to enable trusts to bring about the necessary changes in the investments.

(5) A person who has made a substantial contribution is defined as a person whose total contribution up to the end of the previous year in question exceeds Rs. 5,000.

Clause 7.—This clause seeks to amend section 16(i) of the Act so as to raise from Rs. 500 to Rs. 1,000 the deduction for purchase of books, etc., necessary for the purpose of the duties of a person whose income is chargeable under the head "Salaries".

Clause 8.—This clause seeks to make the following amendments to section 23 of the Act which provides for the determination of annual value of house property:

(1) Where any property is in the occupation of a tenant and the rent paid or payable by him is in excess of the annual value determined under sub-section (1), the annual value is to be taken on the basis of the rent.

(2) The concessional tax treatment under sub-section (2) in respect of self-occupied houses is to be limited to only one house to be specified by the assessee. At present it is available to two houses.

Clause 9.—This clause seeks to add an Explanation to section 26 of the Act which relates to property owned by co-owners. The Explanation provides that where a property is used by co-owners for self-residence, each such co-owner will be individually entitled to the concessional treatment under sub-section (2) of section 23.

Clause 10.—This clause seeks to amend section 32 of the Act so as to permit flexibility in regard to prescribing depreciation for ships in as much as a higher rate of depreciation may be prescribed for the earlier years to enable a quicker write off of the cost of ships.

Clause 11.—This clause seeks to extend the agricultural development allowance under section 35C of the Act to co-operative societies also, besides companies.

Clause 12.—This clause seeks to insert a new section 44B in the Act so as to provide that all persons carrying on profession and all persons carrying on business, where the annual income from the business exceeds Rs. 25,000 or the gross receipts or turnover exceeds Rs. 2,50,000 in any one of the three years immediately preceding the previous year, shall keep and maintain such books of account and other documents as may enable the Income-tax authorities to determine the tax payable and the allowances and deductions, etc., permissible under the Act in relation to such persons. In the case of a business newly set up, such books of account, etc., have to be maintained if the annual income is likely to exceed Rs. 25,000 or the gross receipts or turnover is likely to exceed Rs. 2,50,000 during the previous year.

Power is also being taken to enable the Board to prescribe by rules the books of account and other documents to be kept and maintained and the form and the manner in which and the place at which they shall be so kept and maintained. Similarly, power is being taken to prescribe by rules the period for which the books of account and other documents are to be retained.

Clause 13.—This clause seeks to amend sub-section (1) of section 49 of the Act to provide for the basis for determining the cost of a capital asset for the purposes of determining capital gains in a case where the asset became the property of a Hindu undivided family by the mode referred to in sub-section (2) of section 64, that is to say, where an individual converted his separate property into property belonging to the Hindu undivided family. The cost will be the cost to the individual who made such conversion.

Clause 14.—This clause seeks to make the following amendments to section 64 of the Act which relates to tax avoidance through diversion of income to members of an individual's family:

(1) In computing the total income of an individual, such income as arises directly or indirectly to the spouse by way of salary, commission, fees or other form of remuneration in cash or in kind from a concern in which such individual has substantial interest will be included in the income of such individual.

(2) The income of a minor child arising from admission to the benefits of partnership in all cases, even though neither of the parent is a partner in that firm, will be included in the income of that parent who has higher income.

(3) Income arising directly or indirectly from assets transferred by an individual to his son's minor child, or to his son's wife, otherwise than for adequate consideration, will be included in the income of such individual.

(4) Clause (v) of sub-section (1) of section 64 as proposed to be amended will cover income arising from assets transferred indirectly also.

(5) It is being provided that the connection between the transfer of an asset to a spouse or minor child without adequate consideration and the income from the investment thereof in business need not be proximate for purposes of inclusion in the income of the individual transferring the asset.

(6) It is being provided that in cases where the income is included in the income of another person under the provisions of sub-section (1) of section 64, the income flowing out of the investment of such included income shall also be so included.

(7) It is being provided that in the type of cases covered by sub-section (2) of section 64 where an individual converts his separate property into property belonging to his Hindu undivided family, the entire income from such converted property shall be includible in the income of such individual; but that after partition of the Hindu undivided family (whether partial or total), only the income received by the spouse or minor child shall be so includible.

Clause 15.—This clause seeks to insert two new sections 69C and 69D in the Act. Section 69C seeks to treat unexplained expenditure as income. Section 69D seeks to lay down that a *hundi* loan, and interest thereon, which has either been obtained or repaid otherwise than through an account-payee cheque shall be treated as the income of the borrower.

Clause 16.—This clause seeks to add an Explanation to section 73 of the Act. The proposed Explanation seeks to treat the business of purchase and sale of shares by companies, which are not investment, banking or finance companies, as speculation business. The result of this would be that losses from such dealings will be set off only against gains from similar dealings in shares.

Clause 17.—The amendments proposed in this clause are consequential to the amendments proposed in clauses 20 and 25.

Clause 18.—This clause seeks to amend section 80G of the Act so as to make the deduction for companies and non-companies uniformly at 50 per cent. of the donations made to charitable institutions.

Clause 19.—This clause seeks to insert a new section 80GG in the Act providing for deduction to an assessee, not being one who has any income chargeable under the head "salaries", in respect of house rent paid by him in excess of ten per cent. of his total income but subject to a ceiling of fifteen per cent. thereof or Rs. 300 per month, whichever is less. The deduction is sought to be made permissible only subject to certain prescribed conditions or limitations and would be further subject to the restriction that the individual concerned should not own any house property himself anywhere, nor should his spouse, minor child or Hindu undivided family, of which he is a member, own any house property anywhere.

Clause 20. This clause seeks to omit section 80H of the Act since the provisions thereof are no longer considered necessary.

Clause 21.—The amendments proposed in this clause to section 80J of the Act are only consequential.

Clause 22.—This clause seeks to add a new clause (viiia) to sub-section (1) of section 80L of the Act so as to include therein interest on deposits made with housing boards, etc., subject to the overall limit of deduction under section 80L.

Clauses 23 and 24.—These clauses seek to make amendments to sections 80P and 80QQ of the Act which are only consequential.

Clause 25.—This clause seeks to insert two new sections 80V and 80VV in the Act. Section 80V seeks to provide for deduction of interest paid on money borrowed for payment of any tax due under the Act. Section 80VV seeks to allow deduction of expenses incurred by an assessee on any tax proceedings under the Act before any Income-tax authority or the Appellate Tribunal or any court, subject to a maximum of Rs. 2,000.

Clauses 26 and 27.—These clauses seek to amend sections 104 and 109 of the Act. The effect of these amendments would be that (i) Indian industrial companies and (ii) those Indian companies whose capital assets, being machinery or plant, are Rs. 50 lacs or more, will no longer be outside the scope of section 104. In the case of industrial companies, however, the 'statutory percentage' under section 109 shall be 45.

Clauses 28 and 29.—These clauses seek to amend sections 116 and 117 of the Act with a view to re-designating the Appellate Assistant Commissioner of Income-tax, the Inspecting Assistant Commissioner of Income-tax, the Income-tax Officer of Class I Service and the Income-tax Officer of Class II Service as the Deputy Commissioner of Income-tax (Appeals), the Deputy Commissioner of Income-tax (Assessment), the Senior Income-tax Officer and the Income-tax Officer respectively.

Clause 30.—This clause seeks to amend sub-section (2) of section 124 of the Act to enable the same function in relation to the same case being performed by more than one Income-tax Officer.

Clause 31.—The amendment proposed in this clause to section 125 of the Act is only consequential.

Clause 32.—This clause seeks to insert a new section 125A in the Act enabling jurisdiction over areas, cases, etc., being conferred concurrently on the Deputy Commissioner (Assessment) and the Income-tax Officers under him, so that the distribution of cases, functions, etc., among the Income-tax Officers could be conveniently made from time to time by the Deputy Commissioner (Assessment), and the Deputy Commissioner (Assessment) could also take up assessments in important cases. Concurrent jurisdiction is also sought to be given to Income-tax Officers in respect of the same function and relating to the same case, to be exercised in accordance with the directions of the Deputy Commissioner (Assessment). The Deputy Commissioner (Assessment) is also being authorised to issue instructions to the Income-tax Officers even in individual cases, subject to the safeguard that no instructions prejudicial to the assessee shall be issued without giving him an opportunity of being heard.

Clause 33.—This clause seeks to amend section 127 of the Act relating to powers of the Commissioner and the Board to transfer cases to make them in conformity with the amendments sought to be made by clauses 30 and 32.

Clause 34.—This clause seeks to amend section 130A of the Act. The amendment proposed is only consequential to that proposed to section 124 of the Act under clause 30.

Clause 35.—This clause seeks to amend section 131 of the Act to enable the Assistant Directors of Inspection to exercise the powers presently available to certain Income-tax authorities under that section.

Clause 36.—This clause seeks to make various amendments to section 132 of the Act, relating to searches and seizures. The main amendments are as under:—

(1) Searches and seizures could be authorised so far only by the Director of Inspection and the Commissioner. It is now proposed to enable such Deputy Commissioners (Assessment) and Deputy Directors of Inspection also, as may be empowered by the Board, to authorise searches and seizures.

(2) The power of search is being extended to persons, vehicles, vessels and aircrafts.

(3) The Commissioner of Income-tax is being empowered to authorise search and seizure irrespective of whether the person with respect to whom the search is authorised is assessed in his jurisdiction or not, if the building, etc., to be searched is within his jurisdiction and he considers that any delay would be prejudicial to the interests of the revenue.

(4) In a case where search has been authorised by one Commissioner, etc., but some of the premises to be searched fall outside his jurisdiction, the Commissioner available locally is being enabled to authorise extension of search to premises not mentioned in the search authorisation issued by the first Commissioner, etc., where he is satisfied that such extension of the search is necessary.

(5) If in the course of a search certain assets, account books and documents are found at the premises of an assessee, under the present state of law, the onus is on the Department to prove that they belong to the assessee and relate to his state of affairs. Provision is being made to raise a rebuttable presumption that such assets, books of account, etc., belong to the assessee, that their contents are true and that the signatures and handwriting are of the persons who can reasonably be assumed to have signed or written the books of account, etc.

(6) Under the provisions of sub-section (j) of section 132 of the Act, summary assessment has to be made by the Income-tax Officer with the previous approval of the Commissioner. In view of the experience gained in regard to searches and seizures by the Department, it is proposed to empower the Deputy Commissioner (Assessment) to give such approval in place of the Commissioner.

(7) Sub-section (5) of section 132 of the Act authorises the Income-tax Officer to make a summary assessment within a period of ninety days of the search and seizure and to retain such assets as would be sufficient to satisfy the existing liabilities and the tax liability on the estimated undisclosed income. It is proposed to enlarge the scope of this provision so as to cover penalty and interest relatable to the undisclosed income.

(8) Provision is also being made to provide that the authorised officer, if he has no jurisdiction over the person whose books of account, etc., have been seized by him, shall hand over the books of account to the officer having jurisdiction over the case. The powers and functions under sub-sections (8) and (9) shall be exercised by the officer within a period of fifteen days and thereafter the powers and functions under sub-sections (8) and (9) shall be exercised by the officer having jurisdiction over the case.

Clause 37.—This clause seeks to make a new provision in the Act to the effect that where any books of account or documents or assets have been taken into custody by any officer or authority under any other law, the Director of Inspection or the Commissioner may, in the circumstances covered by the provisions of section 132, require such officer or authority to deliver such books of account, documents or assets to any of the officers so authorised by the Director of Inspection or the Commissioner. Such delivery may be forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the books of account or documents or assets in his or its possession or custody. The other relevant provisions of sections 132 and 132B (as re-numbered) of the Act are also being made applicable to this new provision.

Clause 38.—This clause seeks to extend the power of survey under section 133A of the Act available to the officers of the Department on the following lines:

(a) The powers are being made available to Deputy Commissioners (Assessment) and Assistant Directors of Inspection also.

(b) The Income-tax authority may check cash, stocks or other valuables found in the business premises.

(c) The Income-tax authority may record statement of any person in the business premises.

(d) The Income-tax authority may require furnishing of information which may be useful for, or relevant to, any proceeding under the Act.

(e) The assessee is to be required to afford facility to enable the authority to visit any other premises, besides the business premises, where the assessee states that any part of his books of account, cash, stocks, etc., are kept.

The Income-tax authorities are also being enabled to collect information and record statements of the persons concerned at any time after an event, function or ceremony, but well before the stage of assessment proceedings in the following year, where they are of the opinion that, having regard to the nature, scale or extent of the expenditure incurred, it is necessary to do so. This is intended to enable collection of evidence about ostentatious expenditure immediately after the event, etc.

Clause 39.—This clause seeks to amend section 139 of the Act so as to provide that taxpayers, other than companies, carrying on business or profession, whose income is over Rs. 50,000 or turnover or receipts are over Rs. 5 lacs in a year should get their accounts audited and an audit report in the prescribed form should accompany the return of income. The audit is to be conducted by an accountant as defined in the Explanation to section 288 of the Act.

Power is being taken to make a provision in the form of income-tax return, in such cases as may be prescribed, for obtaining information about income exempt from tax, assets and particulars of expenditure under prescribed heads and exceeding prescribed limits and other outgoings.

Clause 40.—This clause seeks to insert a new section 139A in the Act regarding permanent account numbers. The main provisions proposed are as under,—

(1) Every person who has taxable income, and who has not been allotted any permanent account number, shall, within the prescribed time, apply to the Income-tax Officer for allotment of a permanent account number.

(2) Every person carrying on business whose sales etc. are likely to exceed Rs. 50,000 in any year, and who has not been allotted a permanent account number, shall, within the prescribed time, apply for the allotment of a permanent account number.

(3) Income-tax Officer may also allot to any other person, by whom tax is payable, a permanent account number.

(4) Permanent account numbers already allotted by the Income-tax Department may, on a notification issued, by the Board in the Official Gazette, be deemed to have been allotted under the provision.

(5) Where a permanent account number has been allotted, the person concerned shall quote the number in all his returns to, or correspondence with, any Income-tax authority and in all documents relating to such transactions as may be prescribed in the interests of the revenue.

(6) Income-tax Officer must be informed, after a permanent account number has been allotted, of any change in address or in the name and nature of business.

Clause 41.—This clause seeks to substitute clauses (c) and (d) of section 140 of the Act by three new clauses so as to provide that in the case of a company the return of income shall be signed by the managing director and where for any unavoidable reason the managing director is not able to sign the return or where there is no managing director, by any other director thereof or any other person for the time being mainly in charge of the affairs of the company. Similarly, in the case of a firm, the return shall be signed by the managing partner or where there is no managing partner, by any partner for the time being mainly in charge of the affairs of the firm.

Clause 42.—This clause seeks to amend section 140A of the Act so as to provide that self-assessment tax shall be payable, not within thirty

days of the filing of the return as at present, but either on or before the filing of the return and that the return shall be accompanied by proof of such payment.

The amendment seeks also to change the penalty for non-payment of self-assessment tax to two per cent. of the tax due for every month of default.

Clause 43.—This seeks to amend section 141A of the Act so as to provide that provisional assessment to grant refund shall be made within six months from the date of filing of the return.

Clause 44.—This clause seeks to amend sub-section (1) of section 142 of the Act so as to provide that a notice under that sub-section could be issued without having to wait for the service of a notice under sub-section (2) of section 139.

Clause 45.—This clause seeks to insert two new sections 144A and 144B in the Act. The new section 144A seeks to authorise the Deputy Commissioner (Assessment) to call for the records of a case either on his own motion or on a reference made by the Income-tax Officer or on an application made by the assessee, before an assessment is finalised, and to issue such directions as he considers fit in the circumstances of the case for completion of the assessment. Opportunity to the assessee is sought to be provided for if the directions proposed to be issued are prejudicial to him. It has been made clear that directions which merely lay down the lines on which an investigation is to be made are not to be treated as prejudicial to the assessee.

The new section 144B seeks to provide that where an Income-tax Officer proposes to make additions or disallowances exceeding a prescribed amount, which shall in no case be less than rupees twenty-five thousand, he shall send a draft assessment order to the assessee and where the assessee objects to the assessment being made on the basis of the draft order, he may apply to the Deputy Commissioner (Assessment) who, after hearing the assessee and the Income-tax Officer, shall pass the final order of assessment, and impose penalties under sections 271 and 273 of the Act, wherever called for.

Clause 46.—This clause seeks to amend section 146 of the Act so as to provide that an application made thereunder shall be disposed of within thirty days of the receipt thereof by the Income-tax Officer, but any period of delay attributable to the assessee shall not be counted for the purpose of computing the said period of thirty days.

Clause 47.—This clause seeks to amend Explanation I to section 153 of the Act with a view to excluding also the time spent on prosecution, from the period of limitation prescribed for making an assessment or re-assessment.

Clause 48.—The amendment proposed to section 154 of the Act under this clause is only consequential.

Clause 49.—This clause seeks to insert a new sub-section to section 176 of the Act providing that any sum received after discontinuance of a business is to be treated as income of the recipient in the year of

receipt, if it would have been included in the total income of the person who carried on the business, had it been received before such discontinuance.

Clause 50.—This clause seeks to amend section 179 of the Act so as to extend the liability for taxes due from a private company to the directors thereof, even though such company may not be in liquidation.

Clause 51.—This clause seeks to insert a new section 180A in the Act providing that where any part of the remuneration is paid to a film artiste and to any other person to whom the section applies, in the form of annuity, the tax in respect of the remuneration shall be charged in the hands of the recipient only on the periodical sums payable. The conditions subject to which this concessional treatment is to be made available are as under:—

(1) The contract for annuity must be approved by the Commissioner.

(2) The contract should provide for the first periodical sum to become payable before the expiry of five years from the date of the contract.

(3) The contract should provide for payment of annuity over a period not exceeding ten years.

(4) Not more than 75 per cent. of the entire remuneration payable should be converted into the form of annuity.

(5) The contract should provide that in case of death of the annuitant before the annuity ceases to be payable, payment shall continue to be made under the contract to the heirs, etc., on the same periodical basis as before his death.

Clause 52.—This clause seeks to amend section 185 of the Act so as to provide that if a partner in a firm is an undisclosed *benamidar* of an outsider and any one or more of the partners had knowledge thereof, the firm shall not be treated as a validly constituted firm.

Clause 53.—This clause seeks to extend the scope of sub-section (3) of section 189 of the Act so as to cover the liability of partners for the tax on the share of profits of the dissolved firm to the extent the amount necessary to cover such tax could have been retained by the firm under sub-section (4) of section 182 of the Act.

Clause 54.—This clause seeks to add an Explanation to section 221 of the Act to make it clear that if an assessee has not paid the tax, penalty would still be imposable even if the tax has been paid after the issue of a show-cause notice and before the date of the imposition of penalty.

Clause 55.—This clause seeks to add an Explanation to sub-section (1) of section 222 of the Act, so as to provide that transferred assets within the meaning of section 64 of the Act would not only be liable for payment of that portion of the tax which is attributable to the income from the assets so transferred but also in respect of other tax liabilities

of the person transferring such assets. The assets transferred to a minor would, however, be liable only for the tax levied on the person for any period before the minor attained majority.

Clause 56.—This clause seeks to substitute a new sub-section for the existing sub-section (2) of section 223 of the Act, so as to provide that the Tax Recovery Officer to whom a certificate has been issued by the Income-tax Officer may send the certificate, or a copy of the certificate, to another Tax Recovery Officer for realising the tax or part of the tax due, if he considers that he himself is not able to recover the entire amount or that doing so would expedite or secure the recovery of the whole or part of the amount of tax due from the defaulter.

Clause 57.—This clause seeks to insert a new sub-section (1A) in section 244 of the Act so as to provide that interest on refund of tax due as a result of appeals, etc., is to be allowed from the date the disputed demand was originally paid to the date of grant of refund, but after excluding a period of one month from the date of the order in appeal, etc.

Clause 58.—This clause seeks to insert a new Chapter XIXA in the Act, making provision for settlement of cases. The provisions proposed in this Chapter are mainly intended to give a statutory basis for settlements of cases which are necessitated at times in the interests of the revenue. However, settlement will not be allowed in cases where concealment of income or fraud is established before the making of an application for settlement.

Settlements are to be made by a Committee of not less than three members of the Central Board of Direct Taxes. An application for settlement once made will not be allowed to be withdrawn.

The order of settlement shall provide for the terms of settlement, including any demand by way of tax, penalty or interest, the manner of payment of the sum due under the settlement, etc. It shall also provide that the settlement shall be void if it is subsequently found to have been obtained by fraud or mis-representation of facts. The Committee may, if it is satisfied that the applicant has co-operated with it in the proceedings before it and has made full and true disclosure of his income and the manner in which it has been derived, grant to the applicant immunity from prosecution and penalty. Such immunity can, however, be withdrawn later under certain circumstances. The order of settlement will be final. There will be a bar on subsequent applications for settlement by a person if an order of settlement provides for imposition of penalty for concealment of income or if the person has, after the order of settlement, been convicted of any offence under Chapter XXII of the Act in relation to that case.

Clause 59.—The amendment to section 246 of the Act proposed in this clause is only consequential.

Clause 60.—This clause seeks to substitute clause (b) of sub-section (2) of section 249 of the Act by a new clause so as to provide that in counting the period of limitation for filing an appeal to the Deputy Commissioner (Appeals) against an assessment order in a case in which an application had been filed under section 146 of the Act for re-opening the assessment, the period from the date on which the application under section 146 was made to the date of service of the order on such application shall be excluded. The new clause also seeks to provide that an

appeal to the Deputy Commissioner (Appeals) against an assessment order would be barred unless the admitted portion of the tax has been paid before filing the appeal. The Deputy Commissioner (Appeals), however, is being given power to waive this requirement in appropriate cases for reasons to be recorded in writing.

Clause 61.—The amendment to section 252 of the Act, proposed in this clause, is consequential to the redesignation of Assistant Commissioners of Income-tax.

Clause 62.—The amendments, proposed in this clause, to section 253 of the Act are only consequential.

Clause 63.—The amendment proposed in this clause to section 269A of the Act is only consequential.

Clause 64.—This clause seeks to make various amendments to section 271 of the Act. The main amendments are as under:—

(1) Non-filing or late filing of returns under sub-section (4A) of section 139 of the Act by trusts, etc., whose income is exempt from tax, will attract penalty, being a sum not exceeding one per cent. of the total income of the trust for each year of default or part thereof.

(2) The basis for levy of penalty for concealment of income is being changed from income to tax. Under the proposed amendment, the minimum penalty will be equal to the tax and the maximum twice the tax sought to be evaded.

(3) Where, in respect of facts material to the computation of the total income of an assessee, he furnishes no explanation, or he cannot substantiate the explanation offered by him or the explanation furnished by him is found to be false, the relevant income shall be deemed to be his concealed income. The present Explanation to section 271(1) (c) of the Act is being omitted.

(4) Provision is being made to the effect that where any deposit, investment, etc., made in any year is sought to be explained with reference to any additions made in earlier assessments in respect of which no penalty had been imposed, the taxpayer would become liable to penalty for concealment in respect of the concerned additions made in the earlier years.

(5) Non-filing of returns of income within the normal period of limitation by persons not assessed earlier will be treated as concealment of income.

Clause 65.—This clause seeks to insert a new section 271A in the Act providing for penalty for failure to keep and maintain books of account, etc., and also for not retaining them for the prescribed period.

Clause 66.—This clause seeks to insert two new sections 272A and 272B in the Act. The new section 272A provides for penalty by certain Income-tax authorities for failure to answer questions, sign statements, etc. This section also provides for the imposition of penalty by the aforesaid authorities for certain acts for which only fine could be imposed on prosecution. The new section 272B provides for penalty for contravention of provisions regarding permanent account numbers.

Clause 67.—This clause seeks to insert a new section 273A in the Act in place of the existing sub-sections (4A) and (4B) of section 271 of the Act. The main points of difference between the existing provisions and the proposed one are:—

(1) In addition to the power to reduce or waive penalties under sections 271(1)(a) and 271(1)(c), power is also sought to be given to reduce or waive penalty under section 273 as also interest chargeable under sections 139(8), 215 and 217. For qualifying for reduction or waiver of penalty under section 273 and interest under sections 139(8), 215 and 217, apart from making voluntarily and in good faith full and true disclosure of his income, the assessee should also have paid the tax on the basis of his return.

(2) An order of reduction or waiver of penalty may be passed by the Commissioner even after the penalty or interest has been imposed or levied and either on an application by the assessee or on the Commissioner's own motion.

If in the case of a person reduction or waiver has been allowed once, he shall not be entitled to any relief on any subsequent occasion under this provision.

(3) The Commissioner may, on an application being made by the assessee, and after recording his reasons, reduce or waive any penalty payable by an assessee under this Act, or may stay or compound any proceedings for its recovery, if he is satisfied that it is a case of genuine hardship, and the assessee has been cooperative.

Clause 68.—This clause seeks to omit sub-section (2) of section 274 of the Act in view of the fact that the Income-tax Officer is being empowered to impose penalty subject to certain conditions, even in cases where the concealed income exceeds Rs. 25,000.

Clause 69.—This clause seeks to substitute the existing Explanation to section 275 of the Act so as to exclude also the period during which the immunity granted by the Settlement Committee remained in force.

Clause 70.—This clause seeks to omit section 276 of the Act for the reason that necessary provision for the imposition of penalty is proposed to be made in the new section 272A (*vide* clause 66).

Clause 71 and 72.—Clause 71 seeks to substitute three new sections 276B, 276C and 276CC in the Act for the existing sections 276B and 276C. Clause 72 seeks to substitute six new sections, namely, 277, 278, 278A, 278B, 278C and 278D, for the existing sections 277 and 278 of the Act.

The proposed sections 276B, 276C and 276CC provide for punishment for failure to deduct or pay tax, wilful attempt to evade tax, etc., and failure to furnish returns of income, respectively. The punishment proposed in these sections is based on the recommendation made by the Law Commission in its Forty-seventh Report on the Trial and punishment of Social and Economic Offences.

The proposed sections 277 and 278 provide for punishment for false statement in verification and for abetment of a false return, etc., respectively. The punishment proposed in these sections is also in accordance with the aforesaid recommendation of the Law Commission. The proposed section 278A provides for punishment for second and subsequent offences under section 276B, section 276C(1), section 276CC, section 277

and section 278. The punishment proposed in this section is also in accordance with the aforesaid recommendation of the Law Commission.

The proposed sections 278B and 278C make provision for dealing with offences by companies and offences by Hindu undivided families, respectively.

The proposed section 278D makes provision regarding presumption as to assets, books of account, etc., in certain cases.

Clause 73.—The amendments, proposed in this clause, to section 279 of the Act are only consequential.

Clause 74.—This clause seeks to insert a new section 279A in the Act making certain offences non-cognisable.

Clause 75.—This clause seeks to substitute section 281 of the Act by a new section. The main changes proposed to be effected are:—

(1) There would be an automatic lien for taxes due not only during the course of pendency of proceedings but even after the finalisation thereof up to the stage a notice under rule 2 of the Second Schedule is issued.

(2) The Department would no longer be under an obligation to prove that the transfer was with the intention to defraud revenue.

(3) The charge or transfer shall not be void if made for adequate consideration and without notice of the pendency of proceedings or without notice of tax etc. payable by the assessee or if made with the previous permission of the Income-tax Officer.

(4) The lien would be on assets of the nature of, land, buildings, machinery, plant, shares, securities and fixed deposits in banks, not being stock in trade of the business, and the same would be operative only if the amount of tax payable or likely to be payable exceeds Rs. 5,000 and the assets in question exceed in value Rs. 10,000.

Clause 76.—This clause seeks to insert a new section 281B in the Act so as to empower an Income-tax Officer, with the previous approval of the Commissioner, to make a provisional attachment on the assets of a taxpayer whose case is under investigation even before a tax demand is actually raised against him, if he is of the opinion that it is necessary to do so for the purpose of protecting the interests of the revenue. The provisional attachment will be initially for a period of six months, but may be extended by the Commissioner, for reasons to be recorded in writing, by a further period or periods not exceeding in all two years.

Clause 77.—This clause seeks to amend section 285A of the Act with a view to casting an obligation on contractors to intimate the Income-tax Department about the contract in all cases where the value of the contract is over Rs. 50,000.

Clause 78.—This clause seeks to insert a new section 285B in the Act requiring producers of cinematograph films to furnish to the Income-tax Officer statements of all payments of over Rs. 5,000 made by them to persons engaged by them in the production of the films.

Clause 79.—This clause seeks to amend section 287 of the Act so as to enable the Central Government to publicise prosecutions for offences under the Act even before the matter has been disposed of by the first Appellate Court, where an appeal has been filed.

Clause 80.—This clause seeks to insert two new sections 292A and 292B in the Act. Section 292A bars the application of section 562 of the Code of Criminal Procedure, 1898 and of the Probation of Offenders Act, 1958, unless the person convicted of an offence under the Act is under eighteen years of age.

Section 292B seeks to provide against purely technical objections, without substance, coming in the way of the validity of assessment proceedings, etc.

Clause 81.—This clause seeks to make consequential amendments to section 295 of the Act, dealing with the power to make rules.

Clause 82.—This clause seeks to amend section 296 of the Act in order to bring the provisions thereof on a par with the formula now followed for laying rules before Parliament.

Clause 83.—This clause seeks to amend the rules in the Second Schedule to the Act. The amendments proposed are mainly with a view to achieve the following objectives:—

(i) to enable the Gazetted Officers of Central Government working as Tax Recovery Officers to delegate their functions to lower officers, not below the rank of an Inspector of Income-tax;

(ii) to specify a reserve price in the proclamation of sale of immovable property;

(iii) to empower the Income-tax Officer to bid the property in subsequent sale thereof if the first sale thereof is postponed for the reason that the price bid is below the reserve price;

(iv) to empower the Central Government to accept the property of the defaulter in satisfaction of the tax due from him;

(v) enabling warrants of arrest issued by one Tax Recovery Officer to be executed by another Tax Recovery Officer of an area where the defaulter is found.

Clauses 84 and 85.—These clauses seek to provide for suitable amendments to the Act consequent on the change of designations of Appellate Assistant Commissioner of Wealth-tax and Inspecting Assistant Commissioner of Wealth-tax.

Clause 86.—This clause seeks to make certain amendments to section 4 of the Act, relating to tax avoidance through diversion of assets to members of an individual's family.

Sub-clauses (i) and (ii) seek to make amendments corresponding to those mentioned at item Nos. (3), (4) and (7) of the notes on clause 14.

Sub-clause (iii) seeks to provide that where a gift of money is made by one person to another by merely book entries, the value of such gift shall be included in the net wealth of the person making the gift unless the entries are accompanied with actual delivery of money.

Clause 87.—This clause seeks to substitute the proviso to clause (v) of sub-section (1) of section 5 of the Act by another proviso. The effect of the new proviso will be that the rights under any patent or copyright will be exempt only in the hands of the inventor or the author thereof and not in the hands of any other person who acquires them or gets them assigned by inheritance, contract or otherwise.

Clause 88.—This clause seeks to make an amendment to section 8 of the Act on the same lines as clause 30 seeks to make to sub-section (2) of section 124 of the Income-tax Act.

Clause 89.—This clause seeks to insert a new section 8AA in the Act. The new section seeks to introduce a provision corresponding to that sought to be introduced in the Income-tax Act by clause 32.

Clause 90.—This clause seeks to substitute sub-section (1) of section 8B of the Act by a new sub-section. This amendment is on the lines of the amendment sought to be introduced to the Income-tax Act by clause 33.

Clauses 91 and 92.—These clauses seek to amend sections 9 and 11 of the Act with a view to redesignating the Appellate Assistant Commissioner of Wealth-tax and the Inspecting Assistant Commissioner of Wealth-tax as the Deputy Commissioner of Wealth-tax (Appeals) and the Deputy Commissioner of Wealth-tax (Assessment) respectively.

Clause 93.—This clause seeks to amend section 11B of the Act on the lines on which clause 34 seeks to amend section 130A of the Income-tax Act.

Clauses 94 and 95.—The amendments proposed in these clauses to sections 12 and 13 of the Act are only consequential.

Clause 96.—This clause seeks to amend section 15A of the Act on the lines on which clause 41 seeks to amend section 140 of the Income-tax Act.

Clause 97.—This clause seeks to amend section 15B of the Act on the lines on which clause 42 seeks to amend section 140A of the Income-tax Act.

Clause 98.—This clause seeks to insert a new section 17A in the Act. The Wealth-tax Act contains at present no time-limit for completion of assessments or re-assessments. The new section seeks to provide for the following time-limits in this regard:—

(1) No assessment for the assessment year 1973-74 or an earlier year shall be made after four years from the 1st day of April, 1973.

(2) No assessment for the assessment year 1974-75 or a later year shall be made after four years from the end of the assessment year concerned.

(3) No assessment or re-assessment for the assessment year 1972-73 or an earlier year shall be made under section 17 of the Act

after four years from the 1st day of April, 1973, in respect of any proceeding which may be pending on the said date.

(4) No assessment or re-assessment under clause (a) of sub-section (1) of section 17 of the Act, where the notice under that clause is served on or after the 1st day of April, 1973, shall be made after four years from the end of the assessment year in which the notice was served.

(5) No assessment or re-assessment under clause (b) of sub-section (1) of section 17 of the Act, where the notice under that clause is served on or after the 1st day of April, 1973, shall be made after either four years from the end of the assessment year concerned or after one year from the date of service of the notice, whichever is later.

Under the new provision the time taken in re-opening any proceeding, giving opportunity to the assessee to be re-heard under the proviso to section 39 of the Act and for the prosecution of any person for any offence under the Act will be excluded. The period during which the assessment proceeding is stayed by an order or injunction of any court will also be excluded.

Clause 99.—This clause seeks to make various amendments to section 18 of the Act. The main amendments are:—

(1) Where, in respect of facts material to the computation of the net wealth of an assessee, he furnishes no explanation or he cannot substantiate the explanation offered by him or the explanation offered by him is found to be false, the relevant assets shall be deemed to be his concealed assets.

(2) The basis of levy of penalty for concealment of wealth will be changed from wealth to tax. The minimum penalty for concealment will be equal to the tax sought to be evaded and the maximum five times the said amount.

(3) Where the value of any asset returned by any person is less than 70 per cent. of the value of such asset determined on assessment, such person will be deemed to have furnished inaccurate particulars of such asset unless he proves that the value of the asset returned by him is correct.

(4) Sub-sections (2A) and (2B) of section 18 of the Act relating to reduction or waiver of penalties are being omitted. This is in consequence of a new provision for reduction or waiver of penalties sought to be made in the new section 18B of the Act proposed to be inserted by clause 100.

(5) The penalties under clause (i) of sub-section (1) of section 18 of the Act and clause (iii) of that sub-section for failure to furnish return within the normal period of limitation for completion of assessments will not exceed, in the aggregate, five times the tax sought to be evaded.

Clause 100.—This clause seeks to insert two new sections, section 18A and section 18B in the Act. The new section 18A seeks to introduce a

provision on the lines of the provision sought to be introduced through section 272A in the Income-tax Act by clause 66. The new section 18B seeks to introduce a provision for reduction or waiver of penalties on the lines of the provisions sought to be introduced through section 273A in the Income-tax Act by clause 67.

Clause 101.—This clause seeks to insert a new Chapter VA in the Act, making provision for the settlement of cases on the lines of the provision sought to be introduced in the Income-tax Act by clause 58.

Clause 102.—This clause seeks to amend section 23 of the Act with a view to providing that the appeal to the Deputy Commissioner (Appeals) against an assessment would be barred unless the tax on the basis of the net wealth returned is paid before filing it. This provision is on the lines of the provision sought to be introduced in the Income-tax Act under sub-clause (ii) of clause 60.

Clause 103.—This clause seeks to amend section 24 of the Act. The amendments proposed are only consequential to those proposed in sub-clause (iv) of clause 99 and in clause 100.

Clause 104.—The amendment proposed in the clause to section 26 of the Act is on v consequential.

Clause 105.—This clause seeks to insert a new sub-section (3A) in section 34A of the Act. This amendment is on the lines of the amendment sought to be made in the Income-tax Act by clause 57.

Clause 106.—This clause seeks to substitute two new sections 34B and 34C in place of section 34B of the Act. The new section 34B seeks to insert a new provision regarding transfers of assets on the lines of the amendment sought to be made to the Income-tax Act by clause 75. The new section 34C seeks to insert a new provision regarding provisional attachment of assets in certain cases, on the lines of the provision sought to be introduced in the Income-tax Act by clause 76.

Clause 107.—The amendment proposed in the clause to section 35 of the Act is only consequential.

Clause 108.—This clause seeks to insert new section 35A to 35N after section 35 of the Act. The new section 35A seeks to introduce a provision in the Act on the lines of the provision sought to be introduced in the Income-tax Act through section 276C by clause 71. The new sections 35B, 35D and 35F seeks to substitute in placed of the provisions contained in clause (a) of sub-section (1) section 36, sub-section (2) of section 36 and sub-section (2A) of section 36, respectively of the Act, provisions on the lines of those sought to be introduced in the Income-tax Act through section 276CC by clause 71 and through sections 277 and 278 by clause 72. The new section 35C seeks to substitute, in place of clause (b) of sub-section (1) of section 36 of the Act, a provision on the lines of section 276D of the Income-tax Act by omitting the provision for prosecution for default in compliance with a notice under sub-section (2) of section 16 of the Act. The new section 35E is on the lines of the existing sub-section (2B) of section 36 of the Act

The new sections 35G, 35H and 35N seek to introduce in the Act provisions on the lines of those sought to be introduced through sections 278A, 278C and 278D by clause 72. The new section 35I is in substitution of the provisions contained in sub-section (3) and sub-section (4) of section 36 of the Act in consequence of clause 109. The new section 35J seeks to provide for making certain offences non-cognisable. The new section 35K seeks to substitute new provisions in place of those contained in sub-sections (3A) and (4A) of section 36 of the Act, in consequence of the omission of sub-sections (2A) and (2B) of section 18 of the Act by clause 99 and insertion of a new section 18B by clause 100. The new section 35L is in substitution of sub-section (5) of section 36 of the Act, in consequence of clause 109. The new section 35M seeks to introduce a provision on the lines of that sought to be introduced in the Income-tax Act through section 292A by clause 80.

Clause 109.—This clause seeks to omit section 36 of the Act. The provisions contained in this section are being substituted by the new provisions sought to be introduced by clauses 100 and 108.

Clause 110.—This clause seeks to substitute two new sections 37A and 37B in place of section 37A of the Act. The new section 37A seeks to amend the provisions contained in section 37A of the Act on the lines of the amendments sought to be made to section 132 of the Income-tax Act by clause 36. The new section 37B seeks to introduce a provision in the Act on the lines of the provision sought to be introduced in the Income-tax Act through section 132A by clause 37.

Clause 111.—This clause seeks to amend section 42A of the Act on the lines of the amendment sought to be made to section 287 of the Income-tax Act by clause 79.

Clause 112.—This clause seeks to introduce a new section 42C in the Act on the lines of section 292B sought to be inserted in the Income-tax Act by clause 80.

Clause 113.—This clause seeks to amend section 46 of the Act in order to bring sub-section (4) thereof on a par with the formula now followed for laying rules before Parliament.

Clause 114 and 115.—These clauses seek to provide for suitable amendments to the Act consequent on the change of designation of the Appellate Assistant Commissioner of Gift-tax and the Inspecting Assistant Commissioner of Gift-tax.

Clause 116.—This clause seeks to insert a new section 6A in the Act. The new section seeks to provide that the taxable gift made in any year shall be charged to tax after aggregating it with taxable gifts, if any, made within the preceding four assessment years.

Clause 117.—This clause seeks to make an amendment to section 7 of the Act on the same lines as clause 30 seeks to make to sub-section (2) of section 124 of the Income-tax Act.

Clause 118.—This clause seeks to insert a new section 7AA in the Act. The new section seeks to introduce a provision corresponding to that sought to be introduced in the Income-tax Act by clause 32.

Clause 119.—This clause seeks to substitute sub-section (1) of section 7B of the Act by a new sub-section. This amendment is on the lines of the amendment sought to be made to the Income-tax Act by clause 33.

Clauses 120 and 121.—These clauses seek to amend sections 8 and 10 respectively of the Act with a view to redesignating the Appellate Assistant Commissioner of Gift-tax and the Inspecting Assistant Commissioner of Gift-tax as the Deputy Commissioner of Gift-tax (Appeals) and the Deputy Commissioner of Gift-tax (Assessment) respectively.

Clause 122.—This clause seeks to insert a new clause (c) in section 11AA of the Act. The new clause seeks to make a provision on the lines sought to be made to the Income-tax Act by clause 34.

Clauses 123 and 124.—The amendments proposed to sections 11B and 12 of the Act by these clauses are only consequential.

Clause 125.—This clause seeks to amend section 14A of the Act on the lines on which clause 41 seeks to amend section 140 of the Income-tax Act.

Clause 126.—This clause seeks to insert a new section 16A in the Act. The Gift-tax Act contains at present no time-limit for completion of assessments or re-assessments. The new section seeks to provide time-limits on the lines of those sought to be provided in the Wealth-tax Act by clause 98.

Clause 127.—This clause seeks to make two amendments to section 17 of the Act with a view to removing the ceiling on the quantum of penalty for default in filing the return and to enabling the Gift-tax Officer to pass the order of penalty even in cases where the minimum penalty imposable exceeds Rs. 1,000.

Clause 128.—This clause seeks to insert a new section 17A in the Act. The new section seeks to introduce a provision on the lines of the provision sought to be introduced through section 272A in the Income-tax Act by clause 66.

Clause 129.—This clause seeks to substitute section 18 of the Act. The new section provides that a person making an advance payment of gift-tax will be able to take credit for the rebate thereon in advance, instead of getting it by way of refund on assessment.

Clause 130.—This clause seeks to make two amendments to section 23 of the Act. The first amendment is in consequence of the amendment proposed in clause 128. The second amendment is in consequence of the amendment sought to be made in section 17 of the Act by sub-clause (ii) of clause 127 and the insertion of a new section 17A by clause 128.

Clause 131.—This clause seeks to amend section 25 of the Act. This is in consequence of the insertion of a new section 17A by clause 128.

Clause 132.—This clause seeks to insert a new sub-section (3A) in section 33A of the Act. This amendment is on the lines of the amendment sought to be made in section 244 of the Income-tax Act by clause 57.

Clause 133.—This clause seeks to make two amendments in sub-section (1) of section 35 of the Act. The first amendment seeks to omit the provision for prosecution for default in compliance with a notice under sub-section (2) of section 15. This is to bring it in line with the corresponding provision in the Income-tax Act. The second amendment is in consequence of sub-section (2) of the new section 17A to be inserted by clause 128.

Clause 134.—This clause seeks to insert three new sections 35A, 35B, and 35C in the Act. The new sections 35A and 35B seek to make provisions on the lines of the new sections 278B and 278C sought to be introduced in the Income-tax Act by clause 72. The new section 35C seeks to insert a provision in the Act on the lines of the provision sought to be introduced in the Income-tax Act through section 292A by clause 80.

Clause 135.—This clause seeks to amend section 41A of the Act on the lines of the amendment sought to be made to section 287 of the Income-tax Act by clause 79.

Clause 136.—This clause seeks to insert a new section 41C in the Act on the lines of section 292B sought to be inserted in the Income-tax Act by clause 80.

Clause 137.—This clause seeks to amend sub-section (4) of section 46 of the Act in order to bring the provisions thereof on a par with the formula now followed for laying rules before Parliament.

Clauses 138 and 139.—These clauses seek to provide suitable amendments to the Act to change the references to the Appellate Assistant Commissioner of Income-tax and the Inspecting Assistant Commissioner of Income-tax as references to the Deputy Commissioner of Income-tax (Appeals) and the Deputy Commissioner of Income-tax (Assessment), respectively.

Clause 140.—This clause seeks to make three amendments to section 18 of the Act with a view to including reference to the new sections 125A, 132B and 281B proposed to be inserted in the Income-tax Act.

Clause 141.—This clause seeks to amend sub-section (3) of section 25 of the Act in order to bring the provisions thereof on a par with the formula now followed for laying rules before Parliament.

Clauses 142, 143 and 144.—These clauses are intended to provide for the necessary saving provisions *inter alia* regarding proceedings pending before the Income-tax authorities, Wealth-tax authorities and Gift-tax authorities whose designations are proposed to be changed by clauses 28 and 29; 91 and 92 and 120 and 121 respectively.

Clause 145.—This clause seeks to make necessary provision for construing references to certain Income-tax authorities, Wealth-tax authorities and Gift-tax authorities in other laws, etc., as references to such authorities as newly designated.

FINANCIAL MEMORANDUM

Clause 32 of the Bill seeks to insert a new section 125A in the Income-tax Act, 1961. Clause 89 of the Bill seeks to insert a new section 8AA in the Wealth-tax Act, 1957. Clause 118 of the Bill seeks to insert a new section 7AA in the Gift-tax Act, 1958. These new sections provide for the conferment of jurisdiction on Deputy Commissioner of Income-tax (Assessment), Deputy Commissioner of Wealth-tax (Assessment) and Deputy Commissioner of Gift-tax (Assessment), concurrently with Income-tax Officers, Wealth-tax Officers and Gift-tax Officers, respectively. The Deputy Commissioner of Income-tax (Assessment) will generally function as the Deputy Commissioner of Wealth-tax (Assessment) and the Deputy Commissioner of Gift-tax (Assessment) and the Income-tax Officers will generally function as the Wealth-tax Officers and the Gift-tax Officers, for the purposes of the Wealth-tax Act, 1957 and the Gift-tax Act, 1958.

2. In order to put a curb on unreasonable or high-pitched assessments which result in harassment to tax-payers, clause 45 of the Bill seeks to insert a new section 144B in the Income-tax Act, 1961, providing that in all cases where the Income-tax Officer proposes to make an addition or disallowance exceeding a prescribed amount, he shall send a draft assessment order to the assessee and if the assessee objects to the proposed addition or disallowance, the assessment in question shall be made by the Deputy Commissioner of Income-tax (Assessment) after hearing the assessee and the Income-tax Officer.

3. The proposed provisions aforesaid, when put into operation, will increase the workload of Deputy Commissioners of Income-tax (Assessment). It is envisaged that, for the present, thirty additional posts of Deputy Commissioners of Income-tax (Assessment) will be needed. Consequently, as also for the reason that the appeals against the orders passed by the Deputy Commissioners (Assessment) will lie before the Commissioners, it will be necessary to provide for four additional posts of Commissioners of Income-tax. The expenditure on this account, together with that on the complementary staff and the incidental expenses on administration, is estimated at rupees twenty-seven lakhs and twenty-five thousand per annum.

4. Clause 40 of the Bill seeks to insert a new section 139A in the Income-tax Act, 1961, providing for the allotment of permanent account numbers to assessees with a view to identifying assessees, spotting new assessees, correlating information and combating tax evasion. Considering the number of persons to whom these numbers will have to be allotted and the workload arising from the proposed provision, it is envisaged that two hundred and fifty additional posts of Upper Division Clerks will be needed. The expenditure on this account, together with the incidental expenses, is estimated at rupees thirteen lakhs and twenty thousand per annum.

5. Taking the two amounts mentioned in paragraphs 3 and 4, it is expected that an amount of rupees forty lakhs and forty-five thousand will be the recurring expenditure.

6. For the purpose of purchasing the necessary furniture and other office equipments, it is estimated that there would be a non-recurring expenditure of rupees four lakhs and thirty-five thousand.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 81 of the Bill seeks to amend section 295 of the Income-tax Act, 1961, which provides for the making of rules by the Central Board of Direct Taxes. It is proposed to amend sub-section (2) of that section empowering the Board to make rules specifically, *inter alia*, relating to the matters specified in sub-sections (2) and (3) of section 44B, the conditions or limitations subject to which any payment of rent made by an assessee shall be deducted under section 80GG and the form of the report of audit and the particulars which such report shall contain under sub-section (1B) of section 139.

2. Under sub-section (2) of section 245C of the Income-tax Act, 1961, proposed to be inserted by clause 58 of the Bill, and under sub-section (2) of section 22C of the Wealth-tax Act, 1957, proposed to be inserted by clause 101, the Board is being empowered to prescribe by rules the fees for applications to be made before the Income-tax Settlement Committee and the Wealth-tax Settlement Committee respectively for settlement of cases. Under section 245G of the Income-tax Act, 1961, proposed to be inserted by clause 58, and under section 22G of the Wealth-tax Act, 1957, proposed to be inserted by clause 101, the Board is being empowered to prescribe by rules the fees for obtaining copies of reports made by Income-tax authorities and the Wealth-tax authorities respectively.

3. The matters with respect to which the Board is being empowered to make rules, under the various clauses of the Bill, are matters of detail and can hardly be provided in the Bill itself.

4. The delegation of legislative power is, therefore, of a normal character.

S. L. SHAKDHER,
Secretary.

